BEFORE THE
ILLINOIS COMMERCE COMMISSION

TRI-COUNTY ELECTRIC COOPERATIVE, INC.	)	DOCKET NO. 05-0767
-vs-	)	
ILLINOIS POWER COMPANY d/b/a AmerenIP	)	
Complaint under the Electric Supplier Act.	)	

Springfield, Illinois
Thursday, April 28, 2011

Met, pursuant to notice, at 9:30 a.m.

BEFORE:

MR. LARRY JONES, Administrative Law Judge

APPEARANCES:

MR. JERRY TICE and
MR. KEVIN D. TIPPEY
GROSBOLL, BECKER, TICE, TIPPEY & BARR
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(Appearing on behalf of Tri-County Electric Cooperative, Inc.)

SULLIVAN REPORTING COMPANY, by
Carla J. Boehl Reporter
CSR #084-002710

APPEARANCES: (Continued)

MR. SCOTT HELMHOLZ
MR. JEFFREY R. BARON
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One North Old State Capitol Plaza
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(Appearing on behalf of Illinois Power Company d/b/a AmerenIP)

MR. GARY L. SMITH
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(Appearing on behalf of Citation Oil & Gas)

I N D E X

EXHIBITS

PROCEEDINGS

JUDGE JONES: Good morning. I call for hearing Docket Number 05-0767. This is titled in part as initially filed Tri-County Electric Cooperative, Inc., versus Illinois Power Company d/b/a AmerenIP.

At this time as before we will take the appearances orally for the record. Again, you need not restate your business address and business phone number unless you wish to. We will first take the appearances on behalf of Tri-County Electric Cooperative, Inc.

MR. TICE: Thank you, Judge. Jerry Tice appearing on behalf of Tri-County Electric Cooperative Incorporated.

MR. TIPPEY: Kevin Tippey appearing on behalf of Tri-County Electric Cooperative.

JUDGE JONES: Illinois Power?

MR. HELMHOLZ: Scott Helmholz appearing for Ameren.

MR. SMITH: Good morning, Judge. Gary Smith son behalf of Citation Oil and Gas.

JUDGE JONES: Thank you. Are there any other

appearances this morning?

(No response.)

Let the record show there are not.

Before we proceed with the witness, are there any preliminary matters that the parties believe need attention?

MR. TICE: Yes, Judge. I believe that I had brought the attention to Tri-County Exhibit N and that that was an exhibit that Tri-County had questioned of their witness Robert Dew with respect to, and we have the documents now we wish to submit, and they would be Tri-County Exhibit N which consists of 1962 REA, that's R-E-A, Rural Electrification Administration, Specifications for Drawings for 7.2 and 12.5kV Line Construction; the United States Department of Agriculture, Rural Electrification Administration, Specifications for 7.2kV Line and 12.5kV Line Construction; and the print from the Code of the Federal Register, CFR, as of January 13, 2011, Title 7 under Agriculture regarding compliance by rural electric systems to the National Electric Safety Code.

And I believe there is no objection from either Citation or IP with regard to submission of these exhibits, this exhibit.

JUDGE JONES: Thank you. Let's find out. Is there any objection to the admission of that exhibit?

MR. HELMHOLZ: No objection from Ameren.

MR. SMITH: No, Your Honor.

JUDGE JONES: Do others have a copy of this?

MR. HELMHOLZ: Yes.

JUDGE JONES: Let the record show that Tri-County Exhibit N is hereby admitted into the evidentiary record. It is a hard copy exhibit.

(Whereupon Tri-County N was admitted into evidence.)

JUDGE JONES: Are there any other upfront items before we proceed with the witness?

(No response.)

Thank you. Mr. Helmholz, does AmerenIP have a witness to call at this time?

MR. HELMHOLZ: We do, Your Honor. Ameren calls Keith Malmedal, M-A-L-M-E-D-A-L.

JUDGE JONES: Sir, please raise your right hand

and be sworn as a witness.

(Whereupon the witness was duly sworn by Judge Jones.)

JUDGE JONES: Thank you. Please have a seat.

MR. HELMHOLZ: Good morning, Dr. Malmedal. May I approach, Your Honor?

JUDGE JONES: Yes, sir.

KEITH MALMEDAL

called as a witness on behalf of Illinois Power Company d/b/a AmerenIP, having been first duly sworn, was examined and testified as follows:

DIRECT EXAMINATION

BY MR. HELMHOLZ:

Q. Dr. Malmedal, I am going to hand you some document here today. The first is identified as AmerenIP Exhibit 5 and is labeled the Prepared Direct Expert Testimony of Keith Malmedal, PhD. PE, and that is your prefiled testimony in this matter. I would ask you to look at that and tell me if there are any significant errors, omissions or changes you would like to make before you adopt it?

A. No, no changes.

Q. The next document I am going to hand you is a multiple page exhibit that's labeled AmerenIP Exhibit 5.1, Engineering Study for Citation Feeder Modification, November 5, 2009, and just, if you can, confirm that that is your report in this matter?

A. Yes, it is.

Q. And, now, Exhibit 5.1 contains a number of photographs that are labeled figures, Figure 1 through 7, I believe. I am just going to hand you two enlargements of a couple of those figures, Ameren Exhibit 5.1, Figure 2. I am going to leave here for you. It is the same as the one in the report. Would you confirm that?

A. There is a different angle.

Q. Okay. Then let's not use it.

Now, Figure 3 in Exhibit 5.1 was later revised, so I am going to hand you what has been identified as AmerenIP Exhibit 5.1, Figure 3 Revised. For the purposes of your testimony today are you asking to substitute the revised Figure 3 for the one in the report, Exhibit 5.1?

A. Yes, that is correct.

MR. HELMHOLZ: So just for the record, Your Honor, that figure that's in the report has been revised and it is a separate exhibit, and it has been e-filed.

With that I would move admission of Ameren Exhibits 5, 5.1 and 5.1 Figure 3 Revised and tender the witness for cross examination, Your Honor.

JUDGE JONES: All right. So the ones that are being offered are 5, 5.1 and 5.1 Figure 3 Revised, is that correct?

MR. HELMHOLZ: Yes, sir.

JUDGE JONES: Thank you.

MR. TICE: Is 5.1 Figure 2 not being --

MR. HELMHOLZ: It is in the report. Apparently, I had the wrong enlargement so I am just not going to offer the enlargement.

JUDGE JONES: And the ones you are offering were all on e-Docket and on the exhibit list, is that right?

MR. HELMHOLZ: Yes, sir. There was actually a proof of service with the revisions to Figure 3 filed September 13, 2010.

JUDGE JONES: Are there any objections to the admission of IP Exhibits 5, 5.1 or 5.1 Figure 3 Revised?

MR. SMITH: No objection.

MR. TICE: No objection.

JUDGE JONES: Let the record show those exhibits are admitted into the evidentiary record as filed on e-Docket and as identified in the exhibit list. 5 and 5.1 were filed November 6, 2009. And as noted on the exhibit list and by Mr. Helmholz, 5.1 Figure 3 Revised was filed on September 13, 2010. In any event, those items are all admitted into the evidentiary record.

(Whereupon AmerenIP Exhibits 5, 5.1 and 5.1 Figure 3 Revised were admitted into evidence.)

JUDGE JONES: And the witness is tendered for cross, did you say?

MR. HELMHOLZ: Yes, sir.

JUDGE JONES: Very good. Off the record very briefly regarding scheduling related things.

(Whereupon there was then had an

off-the-record discussion.)

JUDGE JONES: Back on the record. There was a short off-the-record discussion regarding today's scheduling. I think the idea is that we will proceed with cross at this time and then whatever we need to do as we go along to plan for today's hearing, we will do.

All right. Mr. Tice, do you have some questions for Dr. Malmedal?

MR. TICE: Yes, Your Honor.

CROSS EXAMINATION

BY MR. TICE:

Q. Good morning, Mr. Malmedal. Now, you are from Colorado, is that correct?

A. Yes.

Q. And is that where you were born and raised?

A. I was raised there. I wasn't born there.

Q. You spent most of your adult life in Colorado?

A. I spent 12 years in Nebraska, but I spent most of it in Colorado.

Q. You are trained as an electrical engineer,

is that correct?

A. Yes.

Q. And currently you have indicated that you work for NEI which I believe you explain in your prepared direct testimony is a designing consulting engineering firm, is that correct?

A. Yes.

Q. In your design and consulting work what type of work do you do?

A. I do both civil and electrical design for power plants, substations and power lines and some large industrial customers.

Q. Now, have you in the course of doing your design work with NEI -- well, let me ask you this.

Did you work for anybody else prior to NEI?

A. Yes.

Q. Who was that?

A. I worked for a company called Belfay Engineering.

Q. Did you do the same type of work for them?

A. I did mainly industrial-commercial

electrical design with them.

Q. In your past work experience have you ever had occasion to do work for Illinois electric cooperatives?

A. No, I have never worked for a cooperative in Illinois.

Q. Now, this is a territorial dispute, that is a dispute that involves questions of which electric supplier, in this case AmerenIP or Tri-County Electric Cooperative, Inc., has a right to serve a particular electric load. Do you understand that?

A. Yes.

Q. And you were advised of that, I presume, when you were contacted by AmerenIP to be a witness in this case, is that correct?

A. When I was contacted to work on the case, yes, they told me the type of case.

Q. And have you ever had occasion to do any work on behalf of an Illinois electric cooperative with regard to such a territorial issue such as what might be at issue in this case?

A. No.

Q. Have you ever had occasion to work for what I will characterize as an investor-owned utility such as AmerenIP with regard to a territorial issue in Illinois?

A. No.

Q. Now, you made an investigation in this case, I presume, that led to the report that you basically attached to your prepared direct testimony, is that correct?

A. Yes.

Q. When did you make that investigation?

A. It was October of 2009. October 14, 2009, is when I was on site.

Q. By on site you mean at the Salem Oil Field?

A. Yes.

Q. Is that the only time that you were on site at the Salem Oil Field?

A. Yes.

Q. Do you know approximately how much time you spent in that investigation?

A. Approximately one day.

Q. By one day do you mean a full eight hours,

10 hours, 12 hours?

A. It was pretty much all day, yeah, about eight hours.

Q. Eight hours. And was the weather nice when you did your investigation, pleasant, sunshiny?

A. It wasn't sunshiny, but it wasn't raining.

Q. Now, what generally did you observe or look at when you made this investigation of the Salem Oil Field?

A. We looked at the line that was constructed to the gas plant; at least we drove most of the line. We drove along most of the line. We looked at one compressor station. We looked at the two substations, the Texas and Salem substations. We looked at some maps that had to do with the oil field and the operations building or the building they have. We went in that as well.

Q. By the operations building, is that what you understood to be the office of Citation?

A. It's the office building.

Q. At the Salem Oil Field?

A. Yes.

MR. HELMHOLZ: Excuse me, Mr. Tice. I think you interrupted him. He was giving you a list of what he had examined and he had gotten to the operation building, and I don't know that he was finished.

MR. TICE: He said he went into the operations building, and I thought he ended. And then I asked him if that operations building was what he understood to be the Citation office, and he said yes.

MR. HELMHOLZ: I would like to know if he was done answering your question about all the facilities.

JUDGE JONES: Were you finished answering that question?

THE WITNESS: One more thing, I also looked at the distribution structure that Citation has next to the Texas Substation.

BY MR. TICE:

Q. Okay. And did you have an opportunity to look at what is known as the Citation gas plant which is one of the structures at issue in this case?

A. We didn't go in it, but we saw it, yes.

Q. By saw it, what do you mean?

A. We stood probably 100 feet away and looked into it.

Q. What did you observe about that gas plant when you stood there and looked at it?

A. What did I observe?

Q. Uh-huh. Can you describe what you observed, what you saw?

A. Well, it's a fenced-in area with equipment inside of it, and it is fed from -- electrically it is fed from a pad transformer.

Q. Do you know the size of that transformer?

A. I believe it is 1500kVA.

Q. And then you said that you drove along a Citation or along a distribution line that was constructed for bringing service to the gas plant, is that correct?

A. We drove along a line that brings power to the gas plant, yes.

Q. Do you know who constructed -- well, let me ask you this.

Do you know if any of that line was constructed as new line in order to bring power to the gas plant?

A. Yes, some of it was new.

Q. Do you know or can you describe that distribution line that was constructed new? What type of line was it?

A. It was typical RUS type construction. It was a single circuit 1247kV line. I don't know the exact size of conductor that was used, aluminum conductor.

Q. When you say it was 1247kV line, what do you mean when you say that?

A. That means from phase to phase the line is energized at 12,470 volts, nominal voltage.

Q. Was there some other line besides what you observed as being newly constructed line to bring electricity to the gas plant that you observed?

A. We saw at least one of Tri-County's lines. We also saw the transmission line that crosses the distribution line.

Q. Do you know which transmission line that

is, whose transmission line that is?

A. It is Ameren's line.

Q. It crosses what distribution line?

A. It crosses, I believe, both Tri-County's and Ameren's -- or Citation's distribution line.

Q. And where was the Tri-County line that you saw located in relationship to the Citation gas plant?

A. The one I saw -- oh, that led to the gas plant?

Q. Yes. Or did you see one in relation to the gas plant?

A. Yes, I believe the line we saw was also Tri-County's line. It was near the gas plant. I didn't examine it closely.

Q. Do you know what type of line it was or could you describe the line?

A. It was, again, typical RUS construction, but I don't -- it was built similarly to the Citation's line, main line.

Q. Do you know the size of the line?

A. I don't know what size it is.

Q. Now, when you conducted this investigation of the Salem Oil Field were you accompanied by anyone or did you do this on your own?

A. Yes, I was accompanied by Mike and Todd from Ameren and by Mike Garden and one other person from Citation. And the attorney was there as well.

Q. The attorney for IP?

A. Yes.

Q. When you say Mike and Todd, would that be Todd Masten and Michael Tatlock?

A. Yeah, Todd Masten and Mike Tatlock.

Q. And Michael Garden, was he the employee of Citation?

A. Yes.

Q. Now, you indicated you drove along the line that was newly constructed to bring electricity to the Citation gas plant. Does that mean that you did not get out of the vehicle that you were riding in and observe or inspect the line?

A. Yes, we got out at one point, walked up to the poles and looked up.

Q. And that's at one point along that newly

constructed line, is that correct?

A. Yes.

Q. Do you know approximately what the distance was of the newly constructed line?

A. I think it is in testimony, but I don't know exactly how long it was.

Q. Now, in the course of your investigation did you become aware of the fact that Citation had also rebuilt a portion of its Citation distribution line coming from the Texas IP substation and the Citation structure next to that substation bringing electricity to the gas plant?

A. Your question is at the time I saw it?

Q. At the time you made the investigation.

A. At the present time I made the investigation I did not know they had rebuilt part of the line, but I was informed of that later on.

Q. Who informed you of that?

A. I believe Todd did.

Q. Did you observe the portion of the Citation distribution line that brings electricity to the Citation gas plant during your investigation? Did

you observe the portion of the Citation distribution line that was rebuilt during your investigation?

A. Yes, I believe we did.

Q. Do you know what type of rebuild was performed on that portion of the Citation distribution line that brings electricity to the gas plant?

A. I don't know specifically. I believe it was re-conductor, but I don't know exactly what else was done.

Q. Did you ask any questions regarding the type of rebuild that was performed on that portion of the Citation distribution line?

A. You mean subsequently to that?

Q. Or at any time.

A. Yes, I asked them. I inquired from Citation if it was rebuilt and why.

Q. And why did they tell you it was rebuilt?

A. Because I believe it was under-conductored. It was too small to support the load.

Q. At the Citation gas plant, is that correct?

A. Well, whatever is being fed by the line.

Q. Well, the portion that you talked about here as being rebuilt by Citation, is that portion of the Citation line used to bring electric current to the Citation gas plant, if you know?

A. Yes, I believe that's true.

Q. So my question then to you is, is that the reason why or was it rebuilt in order to be able to bring electricity to the Citation gas plant through that Citation distribution line?

A. Well, it was rebuilt to be able to add the additional load, but I believe it delivers power to other things except just the gas plant.

Q. Now, why would a line such as the Citation distribution line that already existed have to be rebuilt to bring current to a new load such as the Citation gas plant?

A. Well, in this case it is very likely the conductor was too small to support the additional current due to the addition of the load that was already there on the line.

Q. Well, what do you mean when you say the conductor was too small to carry the additional

current?

A. Well, a conductor is limited in the amount of current it can deliver by the temperature that the conductor will get to as it delivers that current. The amount of current a line can deliver is a function of the cross sectional area of the line. So there are limits to how hot a line can be allowed to operate. And to supply an additional amount of current may mean the conductor has to have a larger cross sectional area to remain under a certain temperature load.

Q. So as a result of your investigation then of the Citation distribution line used to bring electric current to the gas plant and that portion that was rebuilt, did you make a determination that the reason it was rebuilt was because the conductor was too small and simply lacked capacity to bring the electricity to the gas plant?

A. I made that assumption that's why they rebuilt it. I didn't determine that's why they rebuilt it.

Q. Did you have any reason to question that

that was the reason why Citation rebuilt the line in question?

A. No.

Q. And based on your design experience as an electrical engineer for electric utilities, is that what, if you had been knowledgeable as to the size of the conductor of that rebuilt Citation line, would you have recommended that it be rebuilt in order to bring the current to the gas plant?

A. If the line was too small to conduct the additional current, yes, I would have recommended it had to be rebuilt.

Q. If it had not been rebuilt, what would have happened when the gas plant were hooked to it?

A. Very likely or possibly at peak load for the whole system the conductor would have overheated and probably sagged beyond its limits. The line would have come down too close to the ground because it got too hot and expanded.

Q. Would that violate any regulations?

A. What --

Q. Safety regulations?

A. Any regulations anywhere in the world?

Q. Safety regulations, would that violate any code or safety regulations applicable to that line, that Citation line?

MR. HELMHOLZ: I am going to object. That's compound.

BY MR. TICE: I will rephrase the question.

Q. If the line sagged too close to the ground, what effect would that have on the safety regulations applicable to that Citation line?

A. Well, what safety regulations are we talking about? There are no safety regulations related to that particular line.

Q. None whatsoever?

A. That's correct.

Q. Is the National Electric Safety Code applicable to the Citation line?

A. No.

Q. So it has to meet no requirements whatsoever?

A. In this case the line built by Citation in Marion County has no safety regulations that govern

it.

Q. So if it would sag too close to the ground, why would they need -- and it doesn't violate any problem, why would they have to rebuild it to bring current to the Citation gas plant?

A. Well, because it doesn't violate safety regulations that don't exist here doesn't mean it is safe.

Q. All right. So why is it not safe under those circumstances?

A. Because if someone drove under it with a truck with a tall boom or something, it could contact it. And also if the line sags down, it could contact trees and underbrush and cause fault. So it is not desirable for that to occur, but it doesn't necessarily violate a safety regulation.

Q. Does proper design standards of electric distribution lines, Mr. Malmedal, require or did they require that that Citation line be rebuilt in order to carry the appropriate amount of current or electricity to the gas plant? Do proper electrical design requirements require that that line be rebuilt

in order to bring electric current or electricity to the Citation gas plant?

A. Yes.

Q. Now, in your report that you have attached as AmerenIP Exhibit 5.1, on page 3 under the first paragraph titled Background, right to the left of what you describe as Figure 1, do you see where I am talking to?

A. I see Figure 1.

Q. Right to the left of that you have a sentence that you say the substation steps the transmission voltage down to 12.47kV which it delivers to three different circuits and then you give circuit numbers. Do you see that in your report?

A. Yes.

Q. Of the circuits you are talking about there, are these Citation's electric circuits?

A. No, those are the Ameren circuit numbers.

Q. I see. Do you know how many circuits there are in the Citation oil field?

A. From Ameren?

Q. No, of Citation's.

A. Well, if you are talking -- are you defining circuits as the conductors coming from Citation's distribution structure?

Q. Is that how you would define them?

A. I am asking you if that's the question you are asking me.

Q. Well, let's use that definition, if you are comfortable with that definition.

A. There are four different circuits coming from the four reclosers at the distribution structure.

Q. And those are Citation's electric distribution circuits, is that correct?

A. Those are Citation's circuits, yes.

Q. And do you know where they go?

A. They go throughout the oil field in a variety of different locations.

Q. Now, the Citation circuit that had the construction of an additional line to it, the new line, and the Citation circuit that was a portion of was rebuilt that you have testified to in order to

bring electricity to the gas plant, was that one of those four circuits that you described emanating from the Texas Substation to areas within the Salem Oil Field?

A. Yes.

Q. In the course of your investigation at the Salem Oil Field did you examine any other, any of the other, electrical circuits of Citation within the Salem Oil Field other than the one that you have described here for us that was used to bring electricity to the Citation gas plant?

A. Well, I saw all of them as they came out of the distribution structure.

Q. All right. But that's only one small spot, isn't it, geographically speaking?

A. Well, we didn't drive along every circuit, but we saw them all, everything you could see at that point, yes.

Q. Now, do you know how long those circuits are, each of those circuits?

A. I do not.

Q. Do you know how long the circuit is that

brings electricity from the IP Texas Substation to the Citation gas plant?

A. No, not exactly.

Q. Did you measure it?

A. No.

Q. Is there any reason why you didn't measure it?

A. I didn't see the relevance to what I was trying to investigate as to the length of the circuit. And the length of the new part was, I mean, it was already in testimony.

Q. Well, at the time you made the investigation that wasn't in testimony?

A. Yes, I believe I had Mr. Dew's report and I think it did refer to the length of those circuits.

Q. So you had read Mr. Dew's report at the time that you did the investigation?

A. I had read it, yes.

Q. Now, you said that you saw one of the Citation gas compressor sites, is that correct?

A. That's correct.

Q. And do you have in your report a picture of

the gas compressor site of Citation that you saw during your investigation?

A. Yes, it is Figure 6.

MR. TICE: Scott, is that a colored picture in the report?

MR. HELMHOLZ: It is supposed to be. It may not be in the copies. I don't know if it is colored.

BY MR. TICE: If you have got a colored one, I don't need these.

Q. Now, Mr. Malmedal, looking at that Figure 6 on page 6 of your report, of your 5.1 report, do you have that?

A. Yes.

Q. Now, is it your testimony that -- well, let me ask you this.

Why did you not examine any of the other gas compressor sites?

A. Because the Citation people I was with told me they were all installed similarly, and for the purposes of my investigation I didn't need to confirm that they were all similarly installed. I took it for granted that they would all have been installed

about the same way.

Q. So you are saying -- is it your testimony then that Figure 6 of your report marked 5.1 is a picture of the typical gas compressor facility that's at issue in this case that was constructed or put into operation by Citation?

A. Yes, it should be representative of that installation.

Q. Now, looking at that picture, what I see is three wires coming in from the left side of that picture. You can't see that very well in your report, can you, the picture that's in your report?

MR. HELMHOLZ: Just for the record, he may be looking a copy of what's filed on e-Docket, and e-Docket might be better. We have enlargements probably available.

JUDGE JONES: Did you hand the witness something?

MR. TICE: I am sorry, yes. I handed the witness Ameren Exhibit 5.1, Figure 6, which is an enlarged color picture that's in his report identified as 5.1, Figure 6, Your Honor.

JUDGE JONES: Okay.

BY MR. TICE:

Q. Now, Mr. Malmedal, to the left side of that picture there is a displayed a couple poles, what I would call poles, is that correct?

A. Yes.

Q. Are those typical electric utility poles?

A. Yes.

Q. And there are three wires on those poles, is that correct?

A. Yes, on the top of them.

Q. And what type of service is this? Is this like a three-phase service or a single-phase service?

A. This isn't a service at all.

Q. Well, is this three-phase electricity that comes in to this point?

A. There is three-phase power here, yes.

Q. And you said that the Citation distribution line was 12.47, or 12,470 volts, is that correct?

A. That's correct.

Q. Are these three lines that you see attached to the top of these poles in this picture, are they

what would be normally called conductors in the course of your profession?

A. Yes.

Q. And is the voltage on those three conductors then 12,470 volts?

A. Between them, yes.

Q. Now, I see what I would call as transformers on the second pole in towards the center of the page, and I see a connection from those three conductors down to those transformers. In fact, are those gray circular cylinders on that pole called transformers?

A. Yes.

Q. And what's the voltage that's coming into those transformers from those three conductors?

A. Well, 12,470 volts is coming down from the line up above to the primary side of those transformers.

Q. Now, by primary side, is that what is sometimes commonly referred to as the high side of the transformer?

A. Well, it depends. Primary is usually

defined as the side of the transformer that it is being exited from, that is the power is being supplied from.

Q. In this case the 12,470 volts?

A. Yes.

Q. What's the transformer do with that voltage?

A. It transforms it to, in this case, 480/277.

Q. 480/2 what?

A. Slash 277 volts.

Q. And where does that voltage emanate from the transformer at? The secondary side?

A. Yes.

Q. Is that sometimes referred to as the low side of the transformer?

A. In this case the secondary is the same as the low voltage side, yes.

Q. Where does that voltage go from the low side of the transformer in your picture?

A. It comes down, looks to me, like to a weather head. It goes down through a stretch of conduit into either a fuse switch or a breaker. I

don't know which for sure that is.

Q. You didn't open it up and inspect it?

A. I didn't open it. I didn't expose myself to any energized parts.

Q. Is that typical of construction for this type of a location?

A. Yes.

Q. And then where does it go from this box that you described as some type of a fuse or a connection?

A. It goes underground over to a set of switch gears that was off to the right of this picture.

Q. Is that enclosed within the wire fencing?

A. Yes.

Q. Did you understand the mechanism enclosed within the wire fencing to be the gas compressor?

A. Yes.

Q. What is that electricity then that comes into that enclosed wire fencing utilized for?

A. It will go to a motor starter and then to a motor that's powering the gas compressor.

Q. Do you know what size of electric motor

that was powering that particular gas compressor?

A. This particular one I do not know.

Q. What would you normally expect it to be, given what you observed at this time?

A. I think it is in testimony that these are from 20 to 50 horsepower motors.

Q. What type of voltage do they require to operate?

A. These are 480 volt.

Q. Four hundred and eighty volt motors?

A. Yes.

Q. Now, Mr. Malmedal, can you connect that 480 volt motor that's used to power that gas compressor site directly to those three conductors at the top of those two poles?

A. Not and expect it to operate.

Q. What would happen if you did?

A. It would very likely be destroyed.

Q. Why? What would happen to it?

A. The insulation would fail in the motor.

Q. Be burned up?

A. Yes.

Q. And why is that?

A. Because the insulation in the motor isn't designed to deal with the stress of the 12,470 volts.

Q. So in order for the -- is it fair to say then that in order for the electric current coming from those three conductors to be utilized at that gas compressor site to operate that electric motor, it has to be transformized down with the transformer and reduced down by the transformer?

A. Yes.

Q. Is that appropriate electric design for that type of facility?

A. Yes.

Q. Is that the way you would design it?

A. Yes.

Q. And if you didn't design it that way, you would be in trouble, wouldn't you?

MR. SMITH: Object to the characterization of trouble.

BY MR. TICE:

Q. You would have a problem, wouldn't you?

MR. HELMHOLZ: We have an objection pending.

JUDGE JONES: I think the question was reworded.

BY MR. TICE:

Q. Would you have a problem if you designed it other than the way it was designed here with the transformers?

A. It would have to have transformers. There is very likely many ways to design it.

Q. But any way you design it, you would have to put some kind of transformer in there, is that correct?

A. For this motor in this line, yes.

Q. And it is your testimony then that, based upon what you were told by the people that were with you in this, during this investigation, that you would expect each of the other gas compressor sites to be similar to what you have described as occurring in this Exhibit 5.1, Figure 6, is that correct?

A. Have to do what?

Q. Based upon what you were told by the people you were with during this investigation, the people at Citation or whoever told you these facts, you

would assume that or you assumed that the rest of the gas compressor sites would have been constructed and designed in the same fashion as the one represented by your Figure 6?

A. I expected them to be very similar to this, yes.

Q. Now, when you observed the gas plant, the Citation gas plant, you said that you observed that there was a 1500kVA transformer at that location, is that correct?

A. Yes.

Q. And what was the purpose of the 1500kVA transformer, pad mounted transformer, located at the Citation gas plant?

A. The same as here, to transform 12,470 to 480.

Q. Over 277?

A. Yes.

Q. And why was it necessary in that instance to transform the 12,470 volts from the Citation distribution line to a lower voltage, 480 over 277?

A. Because the gas plant loads are designed to

take 480 volts.

Q. Why are the gas plant loads -- what do you mean?

A. The motors, the starters, the lights, everything probably.

Q. And would the same thing affect or would the same thing happen with respect to those gas plant electric motors that you describe would happen with the gas compressor site electric motor if the electricity were fed directly from the Citation distribution line into those motors without being transformed down?

A. By the same thing, you mean would they be damaged?

Q. Yes.

A. Yes, they would.

Q. Virtually destroyed in other words, is that correct?

A. Yes, likely.

Q. And, likewise, is the use of the 1500kVA transformer at the gas plant site in order for the reduction, in order to reduce the voltage from the

distribution line of Citation to the lower voltage, standard electrical engineering design for that type of a facility?

A. Yes.

Q. Now, when you looked at the gas plant, investigated that, were you able to determine whether or not there were any switch gear or fuses or anything else located at the gas plant?

A. I did not go in the gas plant to determine the internal electrical design.

Q. On the outside of the gas plant between the transformer, 1500kVA transformer, and the gas plant building, did you observe any structures that contained or would have contained any switch gears or fuses?

A. I did not, but I didn't really look for them, either.

Q. Wouldn't there customarily in your opinion be such facilities or mechanism installed between the 1500kVA transformer and the gas plant building?

A. Yes, or immediately inside of it.

Q. And what's the purpose of those switches or

fuses?

A. To protect the secondary site of the transformer and to protect downstream circuits that are feeding from the transformer.

Q. And those downstream circuits feeding from the transformer go where in the case of the gas plant?

A. Well, I didn't look so I am speculating. I would assume they go to feeding motors in panels that are feeding lights, everything electrical inside the gas plant.

Q. And, again, the installation of switches and fuses between the low side of the 1500kVA transformer in this instance at the gas plant and before the current actually is used within the gas plant, is that typical standard electrical design for that type of facility?

A. Yes.

Q. Now, from the low side of the 1500kVA transformer at that gas plant to those fuses or switches wherever they may be located, either outside the building or inside the building, what is that

particular conductor or line normally called in the electrical business, that brings the current from the low side of the transformer into those switches?

A. A feeder.

Q. A feeder, okay. Is it sometimes called a service conductor?

A. In this particular instance it wouldn't be called a service conductor.

Q. Is it similar to a service conductor?

A. In what respect?

Q. I am just asking. Is it similar to a service conductor?

A. It is made out of wire so that's similar.

Q. Do you know what a service conductor is?

A. Yes.

Q. What is it?

A. It's the conductor that connects a utility's service.

Q. And a utility's service, it connects a utility's service to what normally?

A. To a premises wiring system.

Q. And is it standard design in the electrical

industry to, when there is a service conductor coming from the utility to the premises as you describe it, to have it run from the low side of the transformer to switches and fuses?

A. Say that again.

Q. Is it typical electrical design to have the service conductor run from the low side of the transformer to the switches and fuses at the customer's premises?

A. That would depend on the type of service.

Q. But you are aware of those type of electrical services, are you not?

A. Services do exist like that, yes.

Q. Would that be a typical service on a home, for instance, a residence?

A. Very common on a home.

Q. And is there typically a transformer, a step-down transformer, located at that residence?

A. Yes.

Q. And is the purpose of that transformer located at that residence to reduce down the voltage from the high side of the transformer to the low side

of the transformer?

A. Yes.

Q. And does it then have what I called the service conductor, what you called a wire of some type, running from that low side to those switches?

A. We are talking about a home?

Q. Yes.

A. If the utility owns the transformer, it would have a service conductor, yes.

Q. And that service conductor would go where?

A. Would go to the home.

Q. Now, if the homeowner owned the transformer, would it still be called a service conductor from the low side of the transformer?

A. If the homeowner owned the --

Q. Transformer?

A. Under which code?

Q. Under any situation.

A. The present National Electrical Code, no, it would not be a service conductor.

Q. What would it be called?

A. It would be called a feeder to the home.

Q. And what would it have been called under the National Electric Code that was in existence in 1965? You referred to that in your report.

A. If the utility owned the cable or the 12.47 to the transformer and the owner owned the transformer, then the older codes define the service as being at the secondary point of that transformer, if a service existed at the primary site.

Q. So in other words, the low side of the transformer would be the service point?

A. The service point wasn't defined in this Code.

Q. Well, you called it the service. The service connection would be at the low side of the transformer then?

A. Again, the service connection wasn't defined either.

Q. Would the service -- where would the service be then, Mr. Malmedal, because I am confused with what you are saying, on the low side of that transformer if the utility brought the electricity into the high side and the customer owned the

transformer?

A. The service would exist at the high side of the transformer, but the Code said that it defined the -- as the Code applied, it would have to be wired as if the service was on the low voltage side, even though the customer owned that transformer.

Q. And what do you mean by service then?

A. The service is the place where the supply system under that Code connects to the premises' wiring system.

Q. And which code are you talking about?

A. '65, I believe '68 and before.

Q. Of the...

A. National Electrical Code.

Q. ..National Electric Code, is that correct?

A. Yes.

Q. And then from the low side of the transformer where you call that the service, there would be a conductor of some type bringing the electricity to fuses or switches or something of that nature, is that correct, before it goes into the home?

MR. HELMHOLZ: Excuse me. I am going to object to the form of the question. I don't know what -- are we strictly talking about a residence now?

MR. TICE: I said it was a home.

MR. HELMHOLZ: I understand now.

THE WITNESS: Say that again.

BY MR. TICE:

Q. Then would there be a conductor from the low side of that transformer to the switches and fuses bringing electricity to the switches and fuses before that electricity then entered the home?

A. There would be.

Q. And, again, what would you call that conductor from the low side of the transformer to those switches and fuses?

A. In this case?

Q. With a home.

A. In this one particular instance that would be a service conductor.

Q. And from the switches and fuses on into the home, what would you call that electrical conduit or conductor?

A. Well, they could be branch circuits, they could be feeders, they could be called a number of things.

Q. In the home in that instance, is that what you refer to as the premise?

MR. HELMHOLZ: Your Honor, I object to this question. There is not any home or residence involved in this case. There has been no testimony really about homes or residential service, and I think the line of questioning -- I have let it go on pretty long, but I just don't think it has any relevance or materiality to the customer involved in this case.

MR. SMITH: Join.

JUDGE JONES: Response?

MR. TICE: The witness has already testified with respect to this example concerning the home. He has testified in fact in his report with respect to examples of electricity in a home and the addition of additional receptacles in the home as examples of his definition of service point or service connection. I believe I have a right to further ask him if -- he

has referred to premise in his answers here. I believe I have a right to further ask him if the premise in this case as he has described it here with this example would be the home.

JUDGE JONES: Can you cite me to the record where there is discussion of the home?

MR. TICE: On page 8, Your Honor, the second full paragraph down starts out, "This situation is analogous to what occurs in a low voltage system supplying power to a house."

JUDGE JONES: All right. Objection overruled. I would want the record to be clear on one thing, I guess. Talking about definitions and things at different points in time and what code said in existence at different points in time. Your current question, though, what code or assumption are you making in that?

MR. TICE: I am not making any assumption in this question about the Code. My question, Your Honor, was he had made reference to the premise and I wanted to ask him the question with the example we have just gone through of the electric service from

the low side of the transformer to the switches, from the switches to the home or the house. I am simply asking him if the house then would be the premise in that situation without reference to any particular code.

JUDGE JONES: So we are back in the current? Are we back in the current?

MR. TICE: Time?

JUDGE JONES: Yes.

MR. TICE: Yes.

THE WITNESS: So your question is about the current --

BY MR. TICE: My question is not about any code at all. I will re-ask the question.

Q. Mr. Malmedal, the electric current would travel then, you said, from the low side of the transformer through some electrical wire which you now said you would call the service conductor, if I understand you correctly, through switches --

A. Let me step back. Which code are we talking about?

Q. We are not talking about any particular

code here.

A. I can't answer you because I need to know which code we are talking about because they changed.

Q. You mean the NEC, the National Electric Code?

A. Is that the code you are talking about?

Q. Let's refer to the National Electric Code.

A. Which version?

Q. I am talking about the version of 1965.

A. Okay.

Q. So with the 1965 NEC, the electric current coming from the low side of that transformer through some wire, which you called the service conductor, to the switches and then from those switches through another electric wire or conductor to the home, would the home under those circumstances be what you have referred to as the premise?

A. Under those conditions the premise would start at the end of the service conductor.

Q. And which service conductor? The one from the switches to the house or from the low side of the transformer to the switches?

A. Well, there is only one service conductor.

Q. And that runs from where to where?

A. From the transformer to the house.

Q. From the low side of the transformer to the house, is that correct?

A. Correct.

Q. And the premise as you are describing it under the 1965 NEC then would be the home, is that correct?

A. Under the conditions you have stated.

Q. By home you mean the structure, the physical structure?

A. Not necessarily.

Q. What do you mean?

A. Well, premise would be anything that the landowner had, anything that is connected to the service. It could be a swimming pool. It could be off-site. It could be anything that he had.

Q. Now, customarily would there be any other transformation -- let me ask you this.

What voltage for a residence under the 1965 NEC code, what voltage would that current be

normally going into the home?

A. Most homes are 122/40.

Q. Would there be any -- is that typical of the normal residence?

A. Of a home, yes.

Q. Would there be any further transformation of that electric current once it enters the home?

A. Very likely.

Q. Very likely?

A. Yes.

Q. What would that be?

A. There is usually a door bell transformer. If there is any type of fluorescent lighting, there would be transformers in fluorescent lighting. There would be a transformer in every electronic device in the home. Computers will have a little box that you plug into the wall that is going to transform it.

Q. Would it be increasing the voltage?

A. Well, in fluorescent lights, yes.

Q. And to what would it be?

A. I think fluorescent lights operate at something like 2,000 volts.

Q. And so it would have to be increased to 2,000 volts before it would be used?

A. Yes, to light a fluorescent light.

Q. Is that customary for most homes?

A. If they have full fluorescent lighting, which I think most, nowadays, everybody is putting in.

Q. Now, referring you back to the structure that you observed at the Texas Substation which I believe you have listed as Exhibit 3 in your report on page 4?

MR. HELMHOLZ: Figure 3.

Q. Figure 3 in 5.1, do you see that?

A. Yes, Figure 3.

Q. Has that been revised?

A. Yes, that's the one we have a revision of.

Q. And that's a picture of what?

A. That's Citation's distribution structure and the electrical service to the Citation oil field.

Q. Now, are there any transformers in that structure?

A. Yes.

Q. And what are they used for?

A. I believe they are lighting, mainly lighting transformers.

Q. Are they used to reduce voltage down so lights can be operated from it at that structure?

A. Yes.

Q. Now, what's the voltage that the electricity comes in at from the Texas Substation to that structure?

A. Twelve thousand four hundred seventy volts.

Q. And what is the voltage on each of the four circuits that emanate from that structure?

A. Twelve thousand four hundred seventy volts.

Q. And when is that voltage then transformed down to a usable voltage by the electric motors of Citation at their gas compressor sites in the gas plant?

A. Normally at the site.

Q. At the site, is that the site that you have described in your Figure 6 on your report, Exhibit 5.1?

A. That's one of them, yes. In fact, there is

two of them shown there.

Q. Two transformers?

A. Uh-huh.

Q. Two sets of transformers, is that correct?

A. Yes.

Q. And is that also or are those transformers that you said that are used to transform the electricity down off the 12,470 volt line the transformer that's located at the gas plant?

A. Are what?

Q. Is the transformer located at the gas plant one of those transformers that you testified is used to then reduce the voltage down from this 12,470 volt line?

A. Yes.

Q. Now, as the electricity is used by the Citation equipment, the gas plant, the gas compressors, that is fed to them by this 12,470 volt circuit, once the electricity leaves this structure of Citation at the Texas gas plant at the 12,470 volt level, is it fair to say that that current is not then reduced in voltage at all until it gets to the

point where it is going to be used by Citation and its motors and equipment?

A. Except by voltage drop, no. A significant device would have to --

Q. What is voltage drop?

A. That's normal -- the voltage along the line will decrease as a function of the current.

Q. Is that typical of these distribution lines?

A. It is part of the law of physics, yes.

Q. Why is the voltage that is emanated from the Texas Substation of IP and this structure of Citation along these circuits of Citation, why is it distributed at 12,470 volts?

A. Well, there is probably a number of reasons. To reduce losses, it is probably cost effective to do that, would be two reasons.

Q. Why wouldn't it be distributed from that structure that you describe in your Figure 3 on exhibit -- or you depict in Figure 3 of your Exhibit 5.1 at the 480/277 volt level that is necessary for it to be used by the electric motors in the gas plant

and compressor sites?

A. It would be far, far more costly to try to do that.

Q. And by costly, what do you mean?

A. Well, the conductor sizes would be tremendously large, the support structures would be tremendously large. It would be very expensive.

Q. So is it customary then for you as an engineer, electrical engineer, to design the distribution facilities used to bring electric current into structures such as the gas compressor sites and the gas plant at a much higher voltage than what is necessary for use at those locations?

A. Is it customary?

Q. Yes. Is it proper design to do that?

A. Well, it depends. I mean, you wouldn't do it unless it was cheaper to do it that way, yes.

Q. And it is cheaper to do it that way in this case?

A. Yes.

Q. Isn't that typical of most electrical distribution line design of the nature of the

Citation distribution line or the Tri-County distribution lines?

A. Is what typical?

Q. To design them as they were in this case to bring voltage in at 12,470 volts, reduce it down at the place where electricity will be used?

A. This is a typical design for the U.S., yes.

Q. And that is because of what you have described as voltage drop?

A. Well, that's one reason. It is done this way because it is the cheapest way.

Q. And it reduces voltage drop, doesn't it, voltage loss?

A. Again, I don't know what you are asking. Nothing can reduce -- voltage drop is a law of physics. You can't reduce it. It exists.

Q. So it would be the same no matter what the size of your conductor is?

A. No, it will vary with the size of the conductor as well as with the current that flows through.

Q. And the size of the conductor dictates the

amount of current you can bring along to carry on that conductor, doesn't it?

A. Yes.

Q. And so the design of the 12,470 volt conductor distribution line for the U.S., which you said was common in the U.S., is done that way because they found that to be economical as far as voltage drop, is that correct?

A. They found it to be economical. You have to tell me what you mean by economical as far as according to voltage drop.

Q. Well, voltage drop is one of the factors in determining whether or not it is economical to handle it in that fashion, isn't it?

A. You have to maintain a certain voltage level. And what you need to do to maintain that voltage level plays into the economy of the design, sure.

Q. And through the years it's been determined that the use of these type of motors that are being utilized here by Citation, it's been determined that the use of that size of a conductor would be the most

economical?

A. What size conductor?

Q. Twelve thousand four hundred seventy volt?

A. That's a voltage level.

Q. I understand that's a voltage level. But the type of conductor that would carry 12,470 volts is the most economical for this type of structure bringing electricity to these types of motors?

A. In this type of a situation 12,470 is likely the most economical fashion to build a distribution system.

Q. Thank you. Now, Mr. Malmedal, did you have an opportunity to review the Service Area Agreement that's at issue in this case?

A. I read through it.

Q. Had you ever seen that type of an agreement before in your work?

A. No.

Q. Were you made aware of the fact that that Service Area Agreement set up various territorial boundaries as between AmerenIP and Tri-County so far as the physical or geographic areas that each would

provide electric service in?

A. Yes.

Q. Did you during the course of your investigation become familiar with where those boundaries were located in relationship to the Citation gas plant and the eight Citation gas compressor sites?

MR. HELMHOLZ: Your Honor, I object to this question. It assumes that the territorial boundaries are dispositive, and that's not the case.

MR. SMITH: I join.

MR. TICE: I just asked him if he determined where they were in relationship to those. Not anything about whether it was dispositive. He is not being asked to say that.

JUDGE JONES: I think this question really just goes to the boundaries in the ESA. Now, the objection may go more to the previous question that was answered than to this particular question. So I am going to allow the question for the reasons noted, and if there are objections to future questions in this line, we will deal with them.

Do you need that question read back, sir?

THE WITNESS: Yeah, what was the question?

MR. TICE: Do you want to read it back?

(Whereupon the requested portion of the record was read back by the Reporter.)

THE WITNESS: A. In general, yes.

BY MR. TICE:

Q. And during the course of your investigation were you made aware of the fact that the Citation gas plant is physically located within the area on those boundary maps that is designated to be Tri-County's service area?

A. Yes.

Q. And did you become aware during your investigation of the fact that seven of the eight gas compressor sites were physically located on the side of the boundary line that would be designated as Tri-County's service area?

A. I believe that's true, yes.

Q. Did you become aware of the fact that the

gas compressor site Number 6 which you have depicted as Figure 6 in your Exhibit 5.1 was physically located on what would be designated as IP's, AmerenIP's, service territory?

A. Yes.

MR. HELMHOLZ: I will object to the form of the question. It assumed that the report identified the depiction in Figure 6 as a particular gas compressor also Numbered 6.

BY MR. TICE: Let me ask you that question.

Q. Do you know if the Figure 6 in your 5.1 report, as to which of the gas compressor sites that is a picture of?

A. Yes.

Q. Which one is it?

A. Number 6.

Q. Okay. Now, with respect to that gas compressor site Number 6 which is depicted as Figure 6 in your Exhibit 5.1, during your investigation did you become aware of the fact or were you made aware of the fact that that gas compressor site was physically located on AmerenIP's side of the

territorial boundary line?

A. Yes.

Q. In the course of your rendering of your opinion in this case did it make any difference to you which side of the boundary line the physical location of the Citation gas plant or any of the eight gas compressor sites were physically located?

A. Did it make any difference?

Q. Yes.

A. As far as what?

Q. Your opinion in this case.

A. As far as what?

Q. Your opinion that you rendered in this case and this report?

A. So state the whole thing over again.

Q. Pardon?

A. State your question over again.

Q. Did it make any difference to you in the rendering of your opinion in your report, that you have given in this report, as to whether or not the physical locations of the gas plant or of any of the gas compressor sites were located on either

Tri-County's side of the territorial boundary line or IP's side of the territorial boundary line?

A. It did not.

Q. And why is that?

A. Why didn't -- why is it that it didn't make any difference to me?

Q. That's correct.

A. From an engineering point of view it doesn't matter.

Q. Why doesn't it matter?

A. Because it has no bearing on any engineering question.

Q. Why doesn't it have any bearing on any engineering question?

MR. HELMHOLZ: Objection, argumentative.

MR. TICE: I don't think it is argumentative. I would like to ask him.

JUDGE JONES: Overruled. Answer the question if you have an answer.

THE WITNESS: A. Yeah, because where something is located doesn't have anything to do with typically how it is engineered.

BY MR. TICE:

Q. But does it have anything to do with who has a right to provide electric service to it under the Service Area Agreement at issue in this case?

MR. SMITH: Calls for a legal opinion.

A. I am not a lawyer.

Q. So you don't know?

A. I am not a lawyer. I am not interpreting the language of the contract.

Q. You are not what?

A. Interpreting the language of the contract.

Q. You are simply looking at it from an engineering standpoint?

A. That's my job.

Q. Does it make any difference to you, Mr. Malmedal, where the electrical service and point of delivery is with respect to each of the gas plant and the gas compressor sites?

MR. HELMHOLZ: I am going to object to that as a compound question.

BY MR. TICE: I will rephrase it.

Q. Does it make any difference to you,

Mr. Malmedal, in this case where the electric service or point of delivery is with respect to the Citation gas plant?

MR. HELMHOLZ: I still object to the form of the question. It equates electric service with point of delivery.

MR. SMITH: I join.

MR. TICE: Well, Your Honor, I am simply referring to his report on page 6 where he says electric service and point of delivery. He uses them together.

MR. SMITH: It is still a compound question.

JUDGE JONES: Where are you on page 6?

MR. TICE: Page 6, the heading up at the very top of his report.

JUDGE JONES: And where is the terminology you are referring to?

MR. TICE: At the very top of it, the title Electric Service and Point of Delivery.

JUDGE JONES: Well, given the citation I will allow the question. Otherwise, there may be a different ruling. But I think the question is fair,

given that heading. But we will give the witness leeway to answer it, given the issue that's been raised. Do you need the question read back?

THE WITNESS: Yeah, what was the question?

BY MR. TICE:

Q. Does it make any difference to you, Mr. Malmedal, in this case where the electrical service and delivery point is located with respect to the gas plant?

A. Yes.

Q. And why is that?

A. The location of the electrical service, it is interesting from a design point of view, and the location of the point of delivery is interesting from a metering point of view.

Q. In your report on page 6, and I would ask you to take a look at it, starting with the second sentence in the first paragraph, you say, "The correct understanding of this term is important because the Service Area Agreement between Ameren and Tri-County Electric Cooperative uses the term "electric service" in its definition of a new and

existing customer. Also, the Service Area Agreement defines a point of delivery as a service connection."

Now, does it make a difference to you then in determining where the electric service and point of delivery is with respect to the gas plant in relationship to the Service Area Agreement that you refer to there?

A. It makes a difference to me from -- it is an interesting point to know that, yes.

Q. And why is it an interesting point to know that?

A. The location of the service is always necessary to know in a design, any kind of a design.

Q. And where is the point of the electric service with respect to the Citation gas plant as you have determined it here?

A. The point of electric service?

Q. Yes.

A. I think I have got that in my report actually pointed out. Yes, in Figure 2 I have got an arrow that points to the service point.

Q. And where is that?

A. Right about in the center of Figure 2.

Q. What does Figure 2 depict?

A. That is a picture of the Texas Substation and the lines leading from the Texas Substation to the Citation distribution structure.

Q. Were you aware -- so you made a determination in this case then that the service point for the Citation oil field is at that pole that you have marked in Figure 2 of 5.1 of your report or your report identified as 5.1, is that correct?

A. Yeah, it is not the pole.

Q. Well, the arrow goes to a pole?

A. No.

Q. I am sorry. It is going to the lines, is that correct?

A. Yes, and that's defined under the latest codes, yes.

Q. Under which code?

A. That's the service point definition that's contained in most of the latest codes, yes.

Q. By latest code what do you mean?

A. Because I was referring to the, at this

time, the 2005 probably National Electrical Code.

Q. Was the 2005 National Electrical Code in existence when the Service Area Agreement was written?

A. No. When I called it a service point, that's where that definition came about.

Q. Pardon?

A. When I called it a service point, that's where that definition came from.

Q. From which?

A. The 2005 National Electrical Code.

Q. And my question was, was the 2005 National Electrical Code in existence when this Service Area Agreement at issue in this case was written?

A. No.

Q. Which National Electrical Code was in existence when this Service Area Agreement was written?

A. 1965.

Q. So the service point then is the Citation-owned distribution lines, is that correct?

A. The service point is the point I have

identified. The connection between the site, where the connection is made between the supply system and the premises wiring system, and that's the point.

Q. I see it's better defined off your color picture. I was looking at your black and white one. It is where those three wires connect to the Citation or the IP Texas Substation, is that correct?

A. That's correct.

Q. And is that what you would call as the low side of the Texas Substation?

A. That is the low voltage side of the Texas Substation.

Q. What voltage is that?

A. Twelve thousand four hundred seventy.

Q. And then it goes through that connection point at the Texas Substation, through those three lines into this structure that you have pictured as Figure 3 on page 4 of your report, Exhibit 5.1, is that correct?

A. That is correct.

Q. The electricity does. And then the electricity comes out of that -- let me withdraw

that.

The current is going in then to that structure marked as Figure 3 on your report, 5.1, at 12,470 volts, is that correct?

A. Yes.

Q. And then it comes out of that structure again on wires to four different circuits, is that correct?

A. Yes.

Q. And each of those four circuits has three conductors on it, is that correct?

A. Three phase conductors. I don't know if they carry a neutral line or not.

Q. So if it did carry a neutral, it would be two conductors?

A. If it carried a neutral, it would be four.

Q. Four, all right. So it is either three or four wires, is that correct?

A. Yes.

Q. Conductors.

A. Yes.

Q. And then those conductors -- or the voltage

on those conductors at that point is 12,470 volts?

A. Yes.

Q. And then it is carried along those conductors in accordance with what you have described, I think, as traditional electrical design for that type of distribution line to the gas plant?

MR. HELMHOLZ: I am going to object to this question, really the entire line. It's really been asked and answered. We are re-plowing, I think, the exact same turf.

MR. TICE: I simply am going back and trying to make clear from what he defines as the service point, what happens with the electricity. I am tying it together here so it is very clear what this man's opinion is, this witness' opinion is, through the point of carrying that electricity to either the gas plant or the compressor sites. That's the reason I am going back and asking this.

JUDGE JONES: Given that explanation I will allow it. It is borderline, but go ahead.

MR. TICE: Do you remember the question?

THE WITNESS: No.

MR. TICE: Do you want to read it back?

(Whereupon the requested portion of the record was read back by the Reporter.)

THE WITNESS: A. Yes.

BY MR. TICE:

Q. And it is also carried to each of the eight gas compressor sites in that manner, 12,470 volts, is that correct?

A. Yes.

Q. And then I believe you told us that at that point, either the physical location of the gas plant or the compressor sites, the electricity voltage is reduced down to a usable level for the electric motors within the facility itself?

A. Reduced to the voltage level required by the motors they have installed, yes.

Q. Is that determination by you that the service point exists as you have shown it in Figure 2 on your report, Exhibit 5.1, based on the fact that Citation owns the distribution line in question, the 12,470 volt distribution line?

A. In part.

Q. In part what else is it based on?

A. That that's where the change in what codes are applicable would occur.

Q. Now, when you say it is based upon in part on the fact that Citation owns that distribution line, why does it make a difference whether Citation owns the distribution line in question?

A. That's typically what is defined as where the premise's wiring system is.

Q. And by premise then, what are you treating as the premise in this case?

A. Everything owned by a private owner or by an owner of a certain location.

Q. In this case by Citation, is that correct?

A. Yes.

Q. Now, did you in the course of your investigation in this case review the Service Area Agreement at issue here?

A. I read it.

Q. Did you during the course of your reading it find anything about premise in that document?

A. I can't recall anything.

Q. Yet premise is key to your determination that the service point is at the location of the connection of the 12,470 volt distribution line of Citation to the Texas Substation, isn't it?

A. It is defined -- it is given in the codes that I refer to.

Q. But premise is key to that determination that that's where the service connection point is at the Texas Substation, isn't it?

A. To the degree it is part of the definition, yes. That's given in the code.

Q. Now, if IP owned this 12,470 volt distribution line that brought electricity to the gas plant, would that determination be different, your determination be different?

A. If this line going to Citation was owned by Ameren?

Q. Yes.

A. Yes.

Q. And would it then be your determination that the service point would be at the high side or

low side of the transformer at the gas plant?

A. Where does Ameren's ownership end in this question?

Q. Well, let's assume that Ameren's ownership ends at the transformer.

A. If Ameren owned the line to the transformer, then the National Electrical Safety Code would apply to that point, and it would definitely change my opinion of where the service would have ended, yes.

Q. Where would the service have ended?

A. The service would have occurred at the ending of Ameren's line, wherever that is.

Q. And what point would that be in the case of the gas plant transformer?

A. It depends wherever Ameren's line ended in your example, is where the service would occur.

Q. Let's assume the line ended at the connection of the high side of the transformer at the gas plant.

A. Then that is where the service point would have been, was at the high side.

Q. Would that be the delivery point of the electricity at the gas plant then, the high side of the transformer?

A. It depends on -- that would be -- well, it depends on your definition of delivery point. Were there meters here or what is here, how are they metering this location?

Q. Is there a difference between service point or -- is there a difference between the service connection and the delivery point in your opinion?

A. In my opinion there would be, yes.

Q. In the case of the delivery of the electrical service by Citation or by IP across its own IP distribution line to the high side of the transformer at the gas plant, there would be a difference between the service connection point and the delivery point?

A. There could be.

JUDGE JONES: Are we still on your hypothetical or are we somewhere else?

Q. Yes. What is the difference?

A. Well, my understanding from the dictionary

from what delivery means is where the sale occurs between an owner and a buyer. So that would in my opinion occur at the metering point.

Q. And where would the metering point be located then in relationship to the high side of the transformer, assuming that IP owned the distribution line to the high side of the transformer?

MR. HELMHOLZ: I just want to object to this hypothetical as not being relevant and material to any issue in the case.

MR. SMITH: Well, I join. I think it is unclear. The timeline and the nature of the assumptions that are being asked in these hypotheticals are confusing.

MR. TICE: Well, Your Honor, he has rendered his opinion. He's already talked about the fact that if IP owned the distribution line in question to bring service to the gas plant and the gas compressor sites, that it would change his opinions as to where the service connection point is. Now I think I have a right -- and he said it would be at the high side of the transformer in this case if that's where IP's

ownership ended. And I think I have the right to question him then about any difference that he believes there is between the service connection point and the delivery point in that example. The example is already in.

JUDGE JONES: I think the line of questioning on the cross of this witness who is testifying as an expert is appropriate cross.

Now, the other issue raised was whether everything is clear in these questions. And I guess we will just have to focus on that as these questions emerge to make sure things are -- make sure the questions are clear in terms of what assumptions they are asking the witness to make.

Now, is there a question -- is there actually a question pending now or --

MR. SMITH: Yes.

MR. TICE: There was.

JUDGE JONES: Could you read that question back, Ms. Reporter?

(Whereupon the requested portion of the record was read back by

the Reporter.)

THE WITNESS: A. This is your hypothetical. You have to tell me. Where is the metering point?

BY MR. TICE:

Q. I am asking you where the metering point would be.

A. This is your example. I don't have a clue.

Q. Could the metering point be located some place different than on the low side of the transformer?

A. Sure.

Q. Okay. Let's assume that the meter is located on the low side of the transformer then.

A. Okay.

Q. Where is the service connection point at that point?

A. As I defined it, it is the place where the ownership changes between the owner, the seller of power, and the buyer of power would have to have a meter.

JUDGE JONES: Now, Mr. Tice, in this hypothetical what time frame are we in? Are we in

the present?

BY MR. TICE: Present.

Q. All right. Now, Mr. Malmedal, does the transformer -- let's assume that the transformer is owned by IP in this example and they also own the distribution line. Does that change your opinion with respect to the location of the service connection point?

A. Yes.

Q. And how does that change your opinion with respect to the location of the service point?

A. The service point would now be located at the end of -- at the secondary site of the transformer where Ameren's ownership of the system ends and where the codes change.

Q. Okay. And then would that change then the location or your opinion as to the location, assuming the same example, as to where the delivery point of electricity is?

A. Once again, is the meter still at the low voltage side of the transformer?

Q. Yes, let's assume that.

A. Then, as I understand your question from before, the meter was at the low voltage side of the transformer. As I understand it now, it is still at the low side of the transformer, is that correct?

Q. That's correct.

A. Then it hasn't changed.

Q. Pardon?

A. Then the point where ownership of electricity occurs does not change.

Q. So you are saying in your opinion then the service point is always that point where the change in ownership of electricity occurs, is that correct?

A. Partially, yes, where the change occurs and where the change in code occurs.

JUDGE JONES: Are you still in your hypothetical or where are you right now?

BY MR. TICE: I am in my hypothetical.

Q. Is it your assumption in this hypothetical, if IP owns the distribution line to the gas plant and the transformer, that the service connection point is at the point where the ownership of the electricity occurs?

A. Where the ownership occurs and where the change in codes occur, that's where the service point occurs.

Q. Well, tell me what the change in the code has to do with your answer.

A. Well, that's why a service point is important and why it's been defined in a special place, is because of -- that's one of the reasons.

Q. What's the other reason?

A. Well, I told you many reasons. That's the most important one to me as a design engineer. I suppose there is legal reasons as well, but to a design engineer the reason is because that's where the change in codes that I have to apply occurs.

Q. What are the -- is there a different code that applies because there is a service point at that location?

A. Yes.

Q. What's the different code?

JUDGE JONES: All right, now, are you still in your hypothetical? Because if you are swinging out of it, you need to tell us.

MR. TICE: I am not in that hypothetical.

JUDGE JONES: You need to let us know if you are going to weave in and out of that hypothetical.

MR. TICE: I am not in the hypothetical now.

JUDGE JONES: Keep us posted.

BY MR. TICE: I am not in the hypothetical.

Q. What is the difference in the two codes? What are the two different codes you are talking about here?

A. Are you talking about in this particular case?

Q. The service point.

A. In the case of the Citation oil field?

Q. Yes.

A. In the case of the Citation oil field, then the parts of the National Electrical Safety Code that have been adopted by the Interstate Commerce Commission of Illinois apply to Ameren, wherein after it ends nothing applies in this particular instance.

Q. And the National Electric Safety Code would likewise apply to Tri-County Electric Cooperative, is that correct?

A. Through their internal documentation, sure.

Q. And so if the distribution line in question running from the Texas Substation to the gas plant, for instance, were owned by IP, they would have to comply with the National Electric Safety Code?

A. It is for anything they owned and borrowed money to build, yes.

Q. And then the National Electric Code would apply at what point if IP owned the distribution line from the Texas Substation to the gas plant?

A. In this case?

Q. In this case.

A. It would never apply.

Q. It would never apply?

A. Right.

Q. Not even -- why? Because of Citation?

A. No, because it hasn't been adopted in Marion County.

Q. So the National Electric Code does not apply at all in this case, does it?

A. Correct.

Q. Why did you rely upon it for your

definitions of service point in your report?

A. I was responding to a statement made in Mr. Dew's report, several statements in fact, where he tried to say that his definition of a service was customary or a well-accepted or, I think he used the term, "classic" definition many times. And I just was showing that that is not a classic definition of service, the way he was describing it.

Q. Is there any code that you rely on at all, Mr. Malmedal, to conclude in your report that the service point in this case is at the connection of the Citation-owned distribution line to the low side of the Texas Substation?

MR. HELMHOLZ: I just have to object to the phrase "this case." We have had a number of hypotheticals juggled. I think the question is vague and hard to follow.

MR. SMITH: I would join. I would call it ambiguous.

MR. TICE: I think it is pretty clear. He has reached in his conclusion he has testified to that the service point for the Citation-owned distribution

line in this case, this docket, is where it connects to the low side of the Texas Substation. That was the question.

JUDGE JONES: You want to give us a citation, given the objection?

MR. TICE: Picture Figure 2 on page 4 of his Exhibit 5.1 shows the service point as being the low side of the Texas Substation.

MR. HELMHOLZ: With that clarification I am fine. I just had an issue with the phrase "this case." You had given him some cases before that.

MR. SMITH: I am fine as well. It's "this case" was ambiguous to whether he meant the present Citation matter or the hypotheticals that he had been using. So with that clarification I am okay.

BY MR. TICE:

Q. Do you understand the question?

A. Yes. To determine what an electrical worker or an engineer would typically assume that the service point would be I relied on the definitions in the National Electrical Code and the National Electrical Safety Code.

Q. Which code -- you just told me that the National Electric Code didn't apply in Marion County?

A. And I just told you that to determine what an electrical engineer or an electrical worker would assume is the definitions in those codes. I didn't say that they would apply.

Q. Does the National Electrical Safety Code apply in your determination of the service point as being the connection of the Citation 12,470 volt line where it connects to the low side of the IP substation?

A. Does what?

Q. Does the National Electric Safety Code apply in your determination of the service point between the 12,470 volt Citation distribution line where it connects with the low side of the Texas Substation?

A. Yes.

Q. Why does it apply?

A. Because it applies to Ameren up to the point of their connection.

Q. But the National Electric Safety Code does

not apply to Citation in your opinion, is that correct?

A. Correct.

JUDGE JONES: Off the record regarding scheduling.

(Whereupon there was then had an off-the-record discussion.)

JUDGE JONES: Back on the record. There was a short off-the-record discussion regarding scheduling, and I think we will just continue with cross examination of Dr. Malmedal.

Mr. Tice, do you have some more questions?

BY MR. TICE: Yes.

Q. Now, with respect to each of the gas compressor sites, let's assume that IP owned the 12,470 volt distribution line from where it connects to the low side of the Texas Substation to the point where it connects to the transformers that you depicted or that you found at the gas compressor sites, and let's assume that the transformers were owned by Illinois Power. Where would the connection

point or service point be with respect to the electric service to those gas compressor sites in that example?

A. If Ameren owned the distribution line and the transformers?

Q. That's correct.

A. It would occur at the secondary point of the transformer, secondary connection.

Q. So ownership bears a lot in your opinion about where the service connection point or delivery point is in this situation or this case, doesn't it?

A. It is bearing two things, ownership and where the codes change.

Q. And it is your opinion that the codes change where the ownership of the facilities change?

A. Typically, that's true.

Q. Now, in this case you don't know how long this 12,470 volt distribution line owned by Citation is from the Texas Substation to the gas plant, but let me ask you this. How far can a person or an entity such as Citation build a 12,470 volt distribution line to carry electricity to a

particular point where the electricity is used?

MR. HELMHOLZ: Your Honor, I am just going to object that that's just totally irrelevant and immaterial to any issue in this case. We know that the field has defined boundaries, so it is in evidence.

MR. SMITH: I join. It's been asked and answered. He is talking about multiple areas. We have gone into this already.

JUDGE JONES: Response?

MR. TICE: I think this is -- I have a right to question this witness who is an expert on just how long this 12,470 volt distribution line could be to carry electricity from the Texas Substation to its use at some point by Citation. I think this is proper cross examination.

JUDGE JONES: Given the objections, I mean, the question is somewhat vague when you say how far. What factors go into that, so.

BY MR. TICE: I will rephrase.

Q. Could Citation build a 12,470 volt distribution line from the Texas Substation to a

point for electrical use, say, two miles in distance?

A. Yes.

Q. Could they build such a line five miles in distance?

A. Yes.

Q. Could they build such a line 20 miles in distance?

A. Yes.

Q. And there at the end of the 20-mile line they could then set some transformers, Citation, reduce the voltage down to a usable location and use it at that location, couldn't they?

A. Yes.

Q. So doesn't it -- wouldn't it be possible then in that situation for Citation to take electricity that it receives from IP at the Texas Substation and move it 20 miles distance and use it at that location?

MR. HELMHOLZ: Objection, Your Honor, that's a hypothetical that was just incredibly immaterial and irrelevant here.

MR. TICE: I don't think it's irrelevant at

all. He just said they could move it that far.

JUDGE JONES: How is that different from the previous question and answer, though. Is there any difference?

BY MR. TICE: I will withdraw the question.

Q. Mr. Malmedal, if Citation were able to run a 12,470 volt distribution line 20 miles from the Texas Substation, would that enable them to utilize the electricity they acquired from IP at that point, the end of the 20 miles?

A. Yes, they could use the electricity they got at the Texas Substation.

Q. And in that case the boundaries in the Service Territorial Agreement would mean nothing, wouldn't it?

MR. HELMHOLZ: Objection, calls for a legal conclusion.

JUDGE JONES: Sustained. I am not saying you can't pursue that line of questioning, but that particular question goes a little far.

BY MR. TICE:

Q. What effect would the use of that

electricity at the end of that 20-mile distribution line by Citation have on the territorial boundary lines that you were aware of or are aware of that are set in the Service Area Agreement?

MR. SMITH: Same objection.

MR. HELMHOLZ: Join.

MR. TICE: I don't think so. It's what effect.

JUDGE JONES: What do you mean by what effect? What are you asking?

MR. TICE: What effect would it have on the boundary line as set by the Service Area Agreement by use of electricity by Citation 20 miles away from the --

JUDGE JONES: I think the question is ambiguous, given the objection. The effect on the boundary line, it is not clear to me --

MR. HELMHOLZ: This witness has already testified he doesn't know where the boundary lines are.

JUDGE JONES: In any event, you can ask him that question.

BY MR. TICE:

Q. You are aware of where the gas plant and gas compressor sites are located in relationship to the boundaries set by the Service Area Agreement, are you not?

A. In general.

Q. And you are aware of the fact that the gas plant is located on Tri-County's side of the boundary line?

A. Yes.

Q. And you are aware of the fact that seven of the eight gas compressor sites are located on Tri-County's side of the boundary line?

A. Yes.

Q. By Citation owning its own electric distribution line running from the Texas Substation to the gas plant and those gas compressor sites, seven of the eight compressor sites, does that enable Citation to bring IP electricity into Tri-County's service territory?

MR. SMITH: Objection to the term "IP electricity" because it is clear that that

electricity is owned by Citation from the Texas Substation.

MR. TICE: No, but it is acquired from IP at the Texas Substation.

MR. SMITH: Well, if you would want to modify the question accordingly, then that would take care of my objection.

BY MR. TICE:

Q. By use of the Citation-owned distribution line, is Citation then able to bring electricity acquired from IP at the Texas Substation to the gas plant and seven of the eight gas compressor sites located in Tri-County's side of the territorial boundary line?

A. Yes.

Q. And if IP were to own that, assuming IP were to own that distribution line, 12,470 volt distribution line, from the low side of the Texas Substation to the gas plant at seven of those gas compressor sites, then the delivery point or service point would have changed, is that correct?

A. Yes.

Q. And it would then be the service point and delivery point would have been on Tri-County's side of the territorial boundary line, is that correct?

A. Which one, service or delivery point?

Q. Either one. Service point.

A. The service point has changed, yes.

Q. To a location within Tri-County's territory, is that correct?

A. Yes.

Q. And is it your understanding under the Service Area Agreement then that IP would not have been able to serve the gas plant in that example?

MR. HELMHOLZ: Objection, calls for a legal conclusion on an issue before the Commission.

MR. SMITH: Join.

JUDGE JONES: Response?

MR. TICE: I think he can state his understanding based on what he said he has reviewed in the Service Area Agreement and knows where the boundary lines are. He knows the service point now has changed to a location on Tri-County's side of the territorial boundary line.

JUDGE JONES: Has this witness rendered an opinion as to which supplier is entitled under the Service Area Agreement to do certain things in his testimony?

MR. TICE: He has -- give me a moment, Judge.

JUDGE JONES: Sure.

(Pause.)

MR. TICE: I will withdraw the question. Let me ask another question, Your Honor.

JUDGE JONES: Go ahead.

BY MR. TICE:

Q. Now, I think -- do you know whether or not the boundaries are relevant or irrelevant to your decision of the delivery point or service connection point in this case?

A. Delivery point has no bearing on my -- nothing in the contract has any bearing on where I conclude that the service point and delivery point are.

Q. And why is that?

A. Because it is not a contractual question. It is an engineering question.

Q. Do you recall my taking your deposition on December 2, 2009?

A. Yes.

Q. Do you recall my asking you the question, "Why are the boundaries irrelevant in your opinion in this case?"

MR. HELMHOLZ: Page and line, please.

Q. Referring to page 78, line 5. Do you recall my asking you that question?

A. Not specifically.

Q. Well, if I read the question to you, "Why are the boundaries irrelevant in your opinion in this case?"

Answer -- do you recall what your answer was?

A. No.

Q. Okay. Answer, "Because this is not a new customer, so the boundaries would -- because the agreement -- I am not a lawyer, but it appears to me the agreement says that an existing customer could continue to serve even if they are outside the boundaries." Do you recall that answer?

A. Yes, I do.

MR. HELMHOLZ: And, Your Honor, for completeness I think you need the rest of the questions and answers through line 19 on that page.

Q. Okay. And the next question says, "To get to the existing customer you have to define delivery point, don't you?" Do you remember that question?

A. No, but go ahead.

Q. And your answer, "Yes." Do you remember that answer?

A. No.

Q. And your next question, "Okay. So when you define delivery point as being its Texas Substation, you have just concluded territorial boundary means nothing in this case?"

Answer -- do you remember that question?

A. No.

Q. And your answer, "Well, in this -- to relate to this, yes, it isn't important."

MR. HELMHOLZ: Your Honor, that's congruent with his testimony. I don't think it is impeachment.

I would object to any further questions on it.

MR. TICE: No, he said -- the question really is whether or not the boundaries were irrelevant in this opinion, in his opinion. That was the question. And his answer was, "It wasn't because this is not a new customer."

JUDGE JONES: What was the answer, the specific answer?

MR. TICE: "Because this is not a new customer."

JUDGE JONES: What was the question?

MR. TICE: In the deposition?

JUDGE JONES: Right.

MR. TICE: "Why are the boundaries irrelevant in your opinion in this case?"

THE WITNESS: A. Yes, it is not important to me what the boundaries are. It wasn't then and it isn't now.

BY MR. TICE:

Q. And it was not important to you because you consider Citation to be not a new customer, is that correct?

A. It is not important to me because it has nothing to do with the location of the service point.

Q. And that is because Citation is not a new customer?

A. It has nothing to do with whether they are a new customer or not.

MR. TICE: Well, Your Honor, I would ask and I will submit then the copy of the page 78 from the witness' deposition because his answer was different. This is a different answer than the one he gave in his deposition. The answer he gave in his deposition was because this is not a new customer so the boundaries would not be relevant.

JUDGE JONES: So what are you proposing to do here?

MR. TICE: I will submit that as Tri-County's Exhibit P.

JUDGE JONES: Do you have copies of that now?

MR. TICE: I don't have copies of it now. I will make copies and submit them.

JUDGE JONES: And what exactly are you going to be including in that?

MR. TICE: Page 78 and the face page, the introductory page, to identify the deposition and date of the deposition of this witness providing the answer that he had provided to me regarding the question about the relevancy of the boundaries, the whole page 78.

JUDGE JONES: Thank you. Is there any objection to the submission into the record of page 78 from that dep?

MR. HELMHOLZ: Yes, Your Honor, I object. Basically, it is irrelevant and immaterial, and it is not impeaching, but also it is not a complete statement. And if you are inclined to allow it, I would like to go back to page 77 and with your permission I will read additional language that I think might help the completeness issue. With more time there might be others.

MR. TICE: I think that's on redirect, if he wants to go back and --

MR. HELMHOLZ: No, Your Honor, a ruling on completeness is instantaneous. Generally, it is allowed to be done immediately. Especially under the

Illinois Rules of Evidence it is very clear.

JUDGE JONES: All right. Well, right now we have what I would consider to be a motion, I guess, to enter a certain deposition page into the evidentiary record, and that motion remains pending. If there is agreement that it can go in along with other portions of that deposition at this time, then we can go ahead and take care of it now. But if that's not the case, then I won't rule on it at this specific point in time. We will just continue with the examination of this witness and take it up at some point other than right now.

MR. TICE: I am not sure what Mr. Helmholz is asking to do.

JUDGE JONES: Well, I don't know that we really want to -- I don't really want to hear any more argument on it right now. If you want a moment among yourselves now to see if there is some agreement that can be reached on that, I don't have a problem with that, but otherwise we will return to this question at a later point.

I am not sure what's to follow here in

your line of questioning, but that's where the issue is at this point.

Did you have something to say, Mr. Helmholz?

MR. HELMHOLZ: May I?

JUDGE JONES: Go ahead.

MR. HELMHOLZ: To some extent this is kind of moot because Mr. Tice read verbatim lines 5 through 19 of page 78. So to that extent it is on the record. I think it is redundant to put the page in.

But my offer for completeness would at least extend four lines from the previous page, 21 to 24 on page 77.

MR. TICE: I have no objection to that.

MR. HELMHOLZ: I will just read those into the record and that way we don't kill any more trees.

MR. TICE: I have no objection to that.

JUDGE JONES: All right. You just want to read them in as they are written?

MR. HELMHOLZ: If I may.

JUDGE JONES: Does anybody have any problem with that?

MR. SMITH: No objection.

MR. HELMHOLZ: I am reading from page 77 of Dr. Malmedal's 12/2/2009 deposition, lines 21 to 24.

Question, "Did you consider where the boundaries were located in rendering your conclusions in this case?"

Answer, "I think where the boundaries are, are irrelevant to this particular case."

MR. TICE: And the next question should be read. "Why is that?"

And the next answer is on page 78 and that should be read in also. "But I did consider where the boundaries -- I understand that some of the loads served are outside of what would typically be the boundaries for a new customer."

Next question was the question I asked or read into the record that I asked Mr. Malmedal, "Why are the boundaries irrelevant in your opinion in this case?"

Answer, "Because it is not a new customer."

It's already been read in.

JUDGE JONES: All right. Just for clarity here, so the passage that would be or may be headed into the evidentiary record here begins on page 27.

MR. TICE: Seventy-seven.

JUDGE JONES: I am sorry, 77, line 21, and then extends through what?

MR. TICE: Page 78, line 19.

JUDGE JONES: All right. So page 77, line 21, through page 78, line 19. And that's all been read into the record by someone this morning.

Is there any objection to the -- well, let me back up a minute.

Is there any objection then to the reading of those questions and answers remaining in the record?

MR. SMITH: I have no objection to the reading of them into the record if they are impeachment; they are not evidence.

JUDGE JONES: How are they being offered here?

MR. TICE: For purposes of the impeaching the witness as to what his answer was about --

JUDGE JONES: So they are being offered for --

are they being offered for impeachment purposes?

MR. TICE: Yes.

JUDGE JONES: And what you are suggesting is there be nothing filed that would be a copy of this. Rather, you would rely on what's been read into the record? I just want to make sure we are clear here. I am not suggesting one form or the other.

MR. TICE: I think to make it clear that the whole thing in sequence should be read into the record, and I would like to do that at this time. Part has been read in at one point, part has been read in at another point. I would like to have it all appear in one place in the record if we are not going to file a copy of it.

JUDGE JONES: Would you rather file a copy? What's the preference of the others? Do you want to sit there and listen to Mr. Tice read that in or do you want a copy of it filed? I don't care.

MR. SMITH: If it is for impeachment, I would just as soon put in a copy and move on.

MR. TICE: We will put in the copy.

JUDGE JONES: Is that all right with you,

Mr. Helmholz? Does that work for you?

MR. HELMHOLZ: Yeah, Your Honor, I just ask leave to review the completeness issue when we get a break and see if there might be more. I can't do it on the fly as we sit here.

JUDGE JONES: All right. So there is not an agreement. I thought there was an agreement a minute ago, but apparently there is not. We were kind of turning to what form that would take. However, if there is not an agreement on it, then we will have to revisit it, and then we can do that.

MR. HELMHOLZ: If Mr. Tice is proposing to read something that's already been read verbatim into the record, I would just as soon we save that as additional housekeeping and we move along.

JUDGE JONES: I think his preference may be to actually file it, although I guess I am not sure.

MR. HELMHOLZ: Well, then I would ask that he file the entire deposition transcript. Just resolve it that way.

MR. TICE: We will file the entire deposition transcript. That's fine with us. Tri-County would

agree to do that. It will be as evidence in this record.

MR. SMITH: Well, that's different, Judge.

MR. TICE: Well, you can't have the whole thing. Your Honor, I am going to object.

JUDGE JONES: Well, Mr. Smith sort of has the floor right now. So I don't know if he has anything else to add, but go ahead.

MR. SMITH: The only thing I want to add is if this is for purposes of impeachment which is what he stated it was earlier and for clarity, you know, in response, then that's fine; I have no problem with the entire transcript. If he is going to offer it for substantive evidence, I think that's an entirely different motion.

MR. HELMHOLZ: I have no objection to him offering 77, 21 to 25, and 78, 1 to 19, as an exhibit. I will clarify that. I will withdraw my request for the entire deposition.

JUDGE JONES: All right. So that will become Tri-County Exhibit P. However, as I understand the comments of the counsel here, it is being offered for

impeachment purposes only. Is that --

MR. TICE: I am sorry, what?

JUDGE JONES: It is being offered for impeachment purposes only?

MR. TICE: That's correct.

JUDGE JONES: Is that the plan?

MR. TICE: That's correct.

JUDGE JONES: Anything else on that?

MR. SMITH: I have no problem with that. It's already in the record.

JUDGE JONES: All right. Then that will be permitted. It will be Tri-County Exhibit P. It will be filed on e-Docket. The document is admitted for impeachment purposes only and it will consist of those lines of testimony or those lines from pages 77 and 78 of the deposition that Mr. Helmholz just identified.

Anything else?

MR. SMITH: No, I have nothing else, but I would point out that it is 11:50 and you were going to make a determination in terms of notification of the court reporter. So I think if we go further,

that's fine, but I just want to point out the time, Your Honor.

JUDGE JONES: I appreciate that. Are you fairly close to --

MR. TICE: Well, we got interrupted here.

JUDGE JONES: Right. That wasn't my question here. Are you fairly close or --

MR. TICE: I have got probably another 30 minutes or so.

JUDGE JONES: Well, you started with 30 before the interruption.

MR. TICE: I know, but I have had about a 15 or 20 minute interruption here. That's right. I understand that, Judge. But I don't want to be penalized for objections. You are asking me; I have got about -- it is going to take about 30 minutes yet, I would suspect.

JUDGE JONES: Off the record.

(Whereupon there was then had an off-the-record discussion.)

JUDGE JONES: Back on the record. There was a short off-the-record discussion regarding the status

of the questioning of the witness, and I think that the plan is just to continue, finish up the cross and assess the situation from there.

So, Mr. Tice, I guess we are back to your questions.

BY MR. TICE:

Q. Mr. Malmedal, I had asked you the question if Citation could have constructed their 12,470 volt distribution line from the Texas Substation 20 miles distant to service an electric load at that point, 20 miles distant from the Texas Substation, and you said yes. Could Citation have constructed that 12,470 volt distribution line 30 miles distant from the Texas Substation and feed a load, electric load, at that point?

MR. HELMHOLZ: Your Honor, I am going to object to that. It is a highly improper hypothetical. It gives the witness no assumptions about intervening land ownership or easements, about what the load would be at the end of the line or how Citation would have legal authority to place it there. And without those assumptions, it is an improper hypothetical.

MR. SMITH: I join and I just think it is irrelevant.

JUDGE JONES: Response?

BY MR. TICE: I could add additional items to it. I will rephrase it, Your Honor.

Q. Could Citation have constructed their 12470 volt distribution line 30 miles distant from the Texas Substation, assuming they acquired right-of-way for that line or owned the surface of the premises so that they could legally construct that line and serve a load similar to the load you found at the Citation gas plant?

A. You are asking whether a 12,470 line could be constructed 30 miles?

Q. And serve an electric load at the end of that line similar to the electric load you found at the Citation gas plant?

A. That's possible, yes.

Q. Is it possible to, assuming the same facts, to have constructed that line 40 miles?

MR. HELMHOLZ: Your Honor, this is getting a little ridiculous.

MR. TICE: I think I have a right. This is cross examination, Your Honor. I have a right to see how far the owner of the line can take the electric service from the Texas Substation and service a load similar to the Citation gas plant.

JUDGE JONES: I will allow it. You can answer it. Do you need it read back?

THE WITNESS: A. No, I don't think so. If they owned all, they could do it legally, yes, they could build a 40-mile line.

BY MR. TICE:

Q. And assuming the facts, just in your opinion how far could they construct that 12,470 volt line and adequately serve a load of the same size as the Citation gas plant at the end of it?

A. Well, typically a 12kV line is not more than 20 miles long. But I know lines in rural areas that feed small loads that are 70 miles long.

Q. Small loads. But I am asking you if they could feed a load of the size of the Citation gas plant.

A. Yes, they could do that.

Q. Forty miles?

A. Yes.

Q. And how far could they take that line, assuming all the other facts that I have given to you, in order to service a load of the size of the Citation gas plant, engineering-wise?

A. If that was the only load on the line, they could probably go 70 miles.

Q. Seventy miles. And let's assume with the same facts, with gas compressor sites that are an issue in this case, how far could Citation have constructed that 12,470 volt line and taken the electric current or electricity acquired at the IP Texas Substation in order to serve a load typical of the gas compressor sites?

A. A very small load like that, I would have to do some calculations to determine what the limit would be.

Q. Could they go the 70 miles that you had indicated for the gas plants?

A. Yes, those are smaller loads than the gas plant.

Q. Could they have served all eight of the gas compressor sites from that same line at that distance?

A. I can't answer that without doing some research.

Q. Referring you to page 8 of your report, 5.1, the second full paragraph, do you see that paragraph?

A. Yes.

Q. You say this situation is analogous to what occurs in supplying low voltage system or power to a house. What situation are you referring to there as being analogous to the supplying of low voltage system power to a house?

A. What is explained in that paragraph.

Q. You say this situation is an analogous. What do you mean by "this situation"? What is the situation you are comparing the house to?

A. The situation that's described, I believe, in the paragraph before.

Q. Okay. That paragraph is referring to the gas compressors and the gas plant being added

downstream from the connection of the Citation 12,470 volt distribution line to the low side of the Texas Substation; is that the situation you are referring to?

A. The gas compressors were added downstream from the service, yes.

Q. Now, you say there are no new services or points of delivery that were created by Citation. What did you mean by --

MR. SMITH: Objection, it doesn't say by Citation.

BY MR. TICE: Well, I am sorry.

Q. No new services or points of delivery were created. What did you mean by points of delivery in that sentence?

A. There are no places where power was delivered from the purchaser to the seller or the seller to the buyer.

Q. And using your phraseology then of points of delivery, I want to take you back to the example I asked you earlier. Assuming that IP owned the electric distribution line, the 12,470 volt line that

was used to bring electricity acquired from IP at the low side of the Texas Substation to the gas plant and assuming IP owned the transformer, the 1500kVA transformer that you said was located on a pad at the Citation gas plant, where would be the point of delivery, as you have used that phrase in this example on page 8B, in my example that I just asked you about the gas plant?

A. Where is the metering point?

Q. Where is the point of delivery?

A. Yeah, where is the meter at in this hypothetical?

Q. Where was the meter at in your analogous situation you are referring to in that paragraph on your report?

A. Well, your hypothetical is no longer analogous to that.

Q. Well, I understand the hypothetical doesn't compare to your situation. I changed it.

A. Okay. So where is the metering point?

Q. Put the metering point after the low side of the transformer, if you care to.

A. Then that would be the point of delivery.

Q. The metering point?

A. The point where the ownership of the power changes from the seller to the buyer.

Q. Are you saying -- and would that then be the point of delivery?

A. Yes, the point where power passes from the ownership of the seller to the buyer is the point of delivery, by my definition.

Q. Now, you indicated that the NEC and the NESC are not applicable to --

JUDGE JONES: Have you left your hypothetical?

BY MR. TICE: Yes.

Q. You have indicated in your testimony that the NEC, National Electric Code, and the National Electric Safety Code are not applicable to Citation, is that correct?

MR. HELMHOLZ: Your Honor, this has pejoratively been asked and answered by admission and the very question asked. I object.

MR. TICE: I don't believe so, Your Honor. I mean, he has indicated that it is not. It is a

foundational question. I want to ask him something about the NEC.

JUDGE JONES: I will allow the question since you have indicated it is a pathway to the question you are planning to ask.

BY MR. TICE:

Q. Do you remember the question, Mr. Malmedal?

A. Yeah, the NEC has not been adopted in Marion County. By Citation, I don't know. But in Marion County it is not applicable.

Q. And you are saying that the National Electric Safety Code is not applicable to Citation, is that correct?

A. In Marion County, Illinois.

Q. The National Electric Safety Code?

A. Yes.

Q. So is the basis then -- let me ask you this.

Is the basis then for your statement that the National Electric Safety Code and the National Electric Code are not applicable to Citation simply because they have not been adopted in Marion

County, Illinois?

A. In the case of the National Electrical Safety Code, it is adopted by the Interstate Commerce Commission, rather than by state law.

Q. Well, my question was, is the National Electric Safety Code applicable to Citation or not?

MR. HELMHOLZ: Your Honor, I object. This has totally been clearly asked and answered at least once and maybe twice.

JUDGE JONES: Overruled. The last couple Qs and As may have raised at least enough of a question there that I think Mr. Tice is entitled to follow up. Go ahead.

THE WITNESS: Your question was?

BY MR. TICE:

Q. Is the National Electric Code applicable to Citation in this case?

A. The National Electrical Code, no, is not applicable to anyone in Marion County except for where it has been adopted.

Q. And let me ask you this, make sure we are clear on this. Is the National Electric Safety Code

applicable to Citation in this case?

A. No.

Q. And why is that?

A. Because Citation is not a regulated utility.

Q. Now, in your report you talk about changes to the Texas Substation, and that's at page 10 of your Exhibit 5.1.

A. Yes.

Q. Are you aware of the fact that Mr. Dew had talked about in his report that there had been numerous changes made or modifications made to the Texas Substation by IP from 1968 forward, are you not?

A. Yes.

Q. And do you agree that some or part of those modifications increase the ability of IP to serve additional load of its customers through the Texas Substation?

A. Yes.

Q. And do you also agree that those modifications that Mr. Dew referred to in his report

in this matter and in his testimony also increase the capacity of the Texas Substation?

A. Define "capacity."

Q. To serve customers?

A. Yes, it would have allowed them to serve additional customers if they needed to.

Q. In fact, is it your opinion that it would have been necessary for IP to have increased the capacity or ability of its Texas Substation to serve additional load simply because of the normal load growth you would assume would occur?

A. Yes.

Q. Now, do you also agree that the Texas Substation was originally built as a three-phase substation?

A. Yes.

Q. Was it originally constructed, Mr. Malmedal, as a radial feed, what is called a radial feed substation?

A. Yes, I believe so.

Q. Has it been modified to make it what is called a loop feed substation?

A. Yes, and in and out.

Q. Pardon?

A. An in and out substation.

Q. And by making it a loop feed substation, does that mean it can be fed from more than one source, fed electricity from more than one source or one line?

A. It is possible. I don't know what's on the end of the line. I don't know why it was turned into a loop feed.

Q. Does a loop feed increase reliability of a substation?

A. Typically, yes.

Q. Does it also increase the quality of the electric power from that substation?

A. Well, it would increase reliability.

Q. Just reliability?

A. Yes, power quality you would have to -- that's a lot larger term.

Q. What does power quality mean in your words?

A. It could mean reduction in harmonics. It could mean many things.

Q. Now, you are aware of the fact that Citation contacted IP and Tri-County with respect to its desire to add this gas plant to the electric load of Citation, aren't you?

A. Someone told me that, I believe, yes.

Q. Why would Citation have asked or inquired of IP or Tri-County with regard to the adding of this Citation gas plant, if you know?

MR. HELMHOLZ: Objection. There is no foundation for that question that the witness would have any knowledge of someone else's subjective --

MR. SMITH: I join. Calls for speculation.

By MR. TICE: I will rephrase the question.

Q. Based upon your experience as an electrical design engineer for electrical distribution circuits, substation, etcetera, Mr. Malmedal, would you have any knowledge as to why or what the purpose was for Citation to have inquired of IP or Tri-County with regard to the addition or adding of this new electric load at the gas station?

A. I would have know way of knowing that.

Q. No way of knowing what?

A. The answer to your question of why they did that.

Q. Are you aware of whether or not any substations are built with more than three phases?

A. Not except for experimentally.

Q. It is not customary in the industry then, is that correct?

A. No.

Q. Are you aware of any substations being reduced from three phases to one phase, single phase?

A. I am not aware of any.

Q. Is it possible to do that?

A. It is possible.

Q. Now, you are also aware, based upon the modifications that IP made to the Texas Substation that you saw in Mr. Dew's report, that additional transformers were added by IP to the Texas Substation, aren't you?

A. Yes, I saw that.

Q. Does that have the effect of -- can that have the effect of increasing the ability of that substation to handle additional electric load?

A. Yes.

Q. You are also aware of the fact that, from Mr. Dew's report, that IP added additional capacitors to the Texas Substation, are you not?

A. Yes.

Q. Does that have the effect of increasing the ability of that substation to add or carry additional electric load?

A. Which set of capacitors? There were two sets added.

Q. Either one of them.

A. One of them would have and one of them would not have, yes.

Q. So at least one of the set of capacitors added by IP to the Texas Substation increased the ability to handle additional electric load through that substation?

A. Yes.

Q. And would the addition of the Citation gas plant to that electric circuit taking electric energy from IP at the Texas Substation have increased the electric load at the substation?

A. If nothing else was done.

Q. If nothing else was done?

A. Yes.

Q. It would have?

A. Yes.

Q. Now, drawing you to your conclusion on page 12 of your report, the first paragraph, you state that the proper definition of a service point, that's in quotes, or a point of delivery, that's in quotes, is the point where utility-owned equipment connects to the equipment owned by the customer.

MR. HELMHOLZ: Excuse me. Which page are you on?

MR. TICE: Twelve.

MR. HELMHOLZ: And which paragraph?

MR. TICE: The first paragraph.

MR. HELMHOLZ: At the top of the page?

BY MR. TICE: No, no, the conclusion.

Q. Now, in my example I asked of you earlier in this cross examination and which I assumed that IP, Illinois Power, owned the 12,470 volt distribution line and the 1500kVA transformer at the

Citation gas plant, I asked you if that would be the service point or point of delivery, and you said it depended -- you told me it depended upon where the meter was?

A. Yes.

Q. Now, if in my example IP owned the distribution line in question plus the transformer and that's where their ownership ended, what difference does it make where the meter is?

MR. SMITH: Asked and answered.

MR. TICE: I don't believe so, not in view of what his opinion is here.

THE WITNESS: What difference does it make to what?

BY MR. TICE:

Q. What difference does it make to where the point of delivery service point is?

A. Say that again. What's your question?

Q. If IP owns the 12,470 volt distribution line and the transformer and that's the end of their ownership of facilities, what difference does it make where the meter is located with respect to where the

point of delivery or service point is?

MR. SMITH: We have already gone over this.

A. Which one of those, point of delivery or the service point? You are confusing me with your question.

Q. In your conclusion you say the proper definition of service point or delivery point. You use them interchangeably, Mr. Malmedal.

A. No, but this is speaking about this condition, not a hypothetical.

Q. Well then, let me ask you this. What is the service point or point of delivery in your conclusion then on page 12?

A. In this case?

Q. Yes.

A. The service point and the point of delivery are the exact point we looked at in the figure that I marked service point.

Q. Is that the end of the ownership of the facilities?

A. Yes.

Q. Okay. My hypothetical to you is giving you

the end of ownership at the transformer.

A. Yes.

Q. Okay. Where is the point of delivery in my hypothetical with the end of the ownership of facilities being at the transformer?

A. Where is the meter in your hypothetical?

Q. My question to you is, what difference does the meter make in relationship to the end of the ownership of facilities for defining point of delivery or service point?

MR. HELMHOLZ: Your Honor, I object to the question. He did not complete the hypothetical and then he is arguing with the witness. The witness has told him what he needs to answer his question. He will not tell him.

MR. SMITH: Join.

MR. TICE: Your Honor, the witness did not put the location of the meter in his definition of service point or point of delivery in his conclusion. Now he is. I think I have a right to cross-examine him about that.

JUDGE JONES: I think the question of the

witness at this point is what difference does it make where the meter is. That's a little different question that's come up. There certainly has been some dialogue over meter location in the hypotheticals. This question is asking why does that matter? What difference does it make where the meter is?

Now, I don't think that is -- I don't recall that particular question being asked and answered. So I think that it is permissible for that question to be asked over objection, and we would ask the witness to answer it if you can.

Do you need it read back?

THE WITNESS: Yeah, what I am answering?

BY MR. TICE:

Q. Let me rephrase the question to you. In your opinion or your conclusion that you draw in this case that appears in the first paragraph of your report, the first paragraph of your conclusion that's in your report on page 12. If you want to take a look at it, take a look at it.

A. I remember it, yes.

Q. You state the proper definition of a service point or point of delivery is the point where utility-owned equipment connects to the equipment owned by the customer, period.

A. Yes, but this is a conclusion to this report, not to a hypothetical.

Q. That conclusion makes no mention of where the meter is located?

A. Because that was already mentioned in the rest of the report.

Q. Where was the meter located?

A. Figure 7, page 7.

Q. So your conclusion then is the service connection point or delivery point will always be where the meter is located?

MR. HELMHOLZ: Your Honor, this has definitely been asked and answered.

MR. SMITH: Join.

JUDGE JONES: I will allow the question. Please answer the question if you can.

THE WITNESS: Are you asking me what my definitions of service point and delivery point are

again?

JUDGE JONES: Could you read the question back, Ms. Reporter?

(Whereupon the requested portion of the record was read back by the Reporter.)

JUDGE JONES: You are not limited to a yes or no answer, but that's the question that's on the table.

THE WITNESS: A. So the service point is a point where the supply system connects to the premise's system. The delivery point is a point where power is delivered from the seller to the buyer.

BY MR. TICE:

Q. And is that always where the meter is?

A. Which one, the service or delivery point?

Q. Well, let me ask you this question. Do you use service point and delivery point synonymously?

MR. SMITH: Asked and answered.

JUDGE JONES: Okay, sustained. Go ahead.

BY MR. TICE:

Q. Is there a difference between service point and delivery point in your mind?

A. There can be, yes.

Q. What is that difference?

A. The service point is the point where power -- where the supply system connects to the premise's wire system. The delivery point is the point where power is delivered from the seller to the buyer.

Q. Can you give me examples where that point would be different in either one?

A. Well, the metering point and the service point are typically at the same place, but that doesn't have to be true.

Q. All right. Now, then is there a difference with the delivery point and where the metering point is?

A. By my definition, no.

Q. So the metering point will always be where the point of delivery is?

A. The point of delivery occurs where power

changes hand, unless there is some kind of contractual agreement that makes that not true.

Q. In my example then if Citation owned the distribution line from the Texas Substation to the transformer and owned the transformer -- in my example if IP owned the distribution line from the Texas Substation to the transformer and also owned the transformer, and the customer owned the conductor, service conductor, from the low side of the transformer through the switches to the structure where the electricity was used, further assume the meter were located on the side of the structure, where would your service point be?

A. The service point would be at the low side of the transformer.

Q. And where would the point of delivery be?

A. Be at the meter.

Q. And whose responsibility would it be to take care or replace the service conductor from the low side of the transformer to the meter?

A. That varies under jurisdiction.

Q. Pardon?

A. That varies under jurisdiction. Sometimes the utility owns that and sometimes the customer owns it.

Q. In my example I said the customer owned it.

A. Well, again, even so, sometimes the utility is required to take care of that and sometimes the customer is required. It depends on the jurisdiction.

Q. That depends upon the agreement between the customer and the utility?

A. Well, sometimes it depends on state law.

Q. Okay. Did you take any of that into consideration in reaching your conclusion, state law or anything else?

A. Reaching which conclusion?

Q. In this case, that you decided to give in your paragraph on page 12 called Conclusion?

A. Did I take any of what?

Q. State law or other conditions you said about who would have to repair this service conductor?

A. I didn't consider who would have to repair

it.

Q. All right. Now, if you considered in your conclusion here that the service point or point of delivery is the point where the connection was for the 12,470 volt distribution line to the Texas Substation, and let's assume that's where the meter is in this case, would Citation be able to simply disconnect that 12,470 volt distribution line at that point of service, as you have described it, and connect it to Tri-County's Salem Substation?

MR. HELMHOLZ: Objection, Your Honor. It's an improper hypothetical. There are numerous assumptions that are not described or clarified. Plus it is irrelevant to any issue in this case as far as I can tell. And it is not anything raised on his direct testimony, so it is beyond the scope.

MR. SMITH: Join.

MR. TICE: He talked about where the service point is and the point of delivery is. He answered questions with respect to how far they can take the electricity with their distribution line. He has testified they can take it across the territorial

boundary line, which they have done here. I think I have a right to ask him if the customer can take its own distribution line, disconnect it from this Texas Substation and connect it to the Salem Substation of Tri-County.

MR. HELMHOLZ: And it also calls for a legal conclusion and he has not shown where this is in further documents.

MR. TICE: This is in his engineering opinion.

JUDGE JONES: Are you asking from an engineering standpoint?

MR. TICE: Yes.

JUDGE JONES: Why don't you rephrase the question and work that in there?

BY MR. TICE: I will.

Q. Mr. Malmedal, from an engineering standpoint, based upon your experience in the design of electric service distribution lines and substations, would Citation be able to disconnect from an engineering standpoint their 12,470 volt distribution line from the Texas Substation and reconnect it to the Salem Tri-County Substation?

A. If all the arrangements were made, sure, that can be done.

Q. And if Citation continued to own that 12,470 volt distribution line that they then connected to the Tri-County Salem Substation, and if the metering were located at that connection between Tri-County and Citation, would Citation be able to then distribute their electricity they received from Tri-County at that Salem Substation to the points where it is transformized down to this gas plant and the eight gas compressor sites?

A. Yes.

Q. And would Tri-County -- or would Citation be able to take that electricity that they receive from Tri-County at the Salem Substation and run it throughout their Salem oil field?

A. Yes, I would assume so.

Q. And would they be able then to take that electric service they receive from the Texas Substation or from the Tri-County Salem Substation and run it, in our example that I asked you about, 20 miles away and feed a load similar to the Citation

gas plant load?

MR. SMITH: Judge, just so that we are clear, this is again from an engineering standpoint?

MR. TICE: Just from an engineering standpoint.

THE WITNESS: A. Yes, there is no engineering difference between how a line is built that has anything to do with what substation is supplying.

MR. TICE: Could I have about five minutes, Your Honor? I would like to take a break and just make sure that I have got -- otherwise I am done.

JUDGE JONES: Is that all right with everybody?

MR. HELMHOLZ: Yes.

JUDGE JONES: We will hereby recess for five minutes.

(Whereupon the hearing was in a short recess.)

JUDGE JONES: Back on the record. Mr. Tice?

BY MR. TICE: I have one other question, Your Honor.

Q. Mr. Malmedal, when you made your investigation October 14 of 2009 of the Salem oil field and you observed the various things you have

testified here today and included it in your report, did you find that all of those items that you observed regarding the electric distribution facilities of Citation and the Texas Substation were on the surface of the ground or in the air on poles?

A. Everything?

Q. What you observed of the electric distribution system of Citation and the Texas Substation?

A. No, it is not all in the air on poles.

Q. Where was it?

A. It was underground. We have a picture of underground. Figure 4 shows underground.

Q. The underground appeared then running from the low side of the transformer down by underground conduit?

A. Yes.

Q. To the electric motor itself, is that correct?

A. To the switch gear that's off beyond the right side, off beyond -- on Exhibit 5.1, the underground is going from either a fuse switch or a

breaker underground over to a set of switch gears.

Q. And the set of switch gear is located on the surface?

A. Yes, it is mounted on the ground.

Q. Okay. But other than that part of the apparatus it was predominantly above surface or on the surface?

A. A lot of it was on the surface, yeah.

MR. TICE: I have no other questions.

JUDGE JONES: Thank you, Mr. Tice. Mr. Helmholz, any redirect?

MR. HELMHOLZ: No, sir.

MR. SMITH: Just one brief question.

CROSS EXAMINATION

BY MR. SMITH:

Q. Dr. Malmedal, you answered a question in response earlier that you do not do or have not done any work for any cooperatives in Illinois. Have you done work for cooperatives, electrical work for cooperatives, outside of Illinois?

A. Yes.

MR. SMITH: That's all I have.

JUDGE JONES: Mr. Tice?

RECROSS EXAMINATION

BY MR. TICE:

Q. Does that electrical work for cooperatives outside of Illinois include any territorial matters?

A. No.

MR. TICE: No other questions.

JUDGE JONES: Thank you, Dr. Malmedal. The questioning is over.

(Witness excused.)

Off the record regarding what's loosely referred to as scheduling matters.

(Whereupon there was then had an off-the-record discussion.)

JUDGE JONES: Back on the record. Let the record show there was an off-the-record discussion for the purposes indicated.

I think the next thing the parties would like to do would be to admit some exhibits or note for the record that some other exhibits are admitted into the evidentiary record and then perhaps get leave to submit some additional exhibits for

evidentiary record purposes.

Mr. Tice, did you have some you wanted to take up?

MR. TICE: Yes, I do, Your Honor. Tri-County wants to make sure the record is clarified to show that Tri-County Exhibit C entitled Prepared Direct Testimony of Bradley Dale Grubb who in turn sponsored Tri-County Exhibits C-1 and C-2 attached to Exhibit C, prepared direct testimony, were admitted into the record subject to Motions to Strike. That admission or determination they were admitted into the record appears at page 696 of the transcript and that was on January 12, 2011.

In addition, Tri-County wants the record to be clarified that Tri-County Exhibit I-1 which is a map depicting locations of Tri-County electric distribution facilities located in the Salem oil field and which was an attachment to the Tri-County Exhibit I which in turn was the prepared rebuttal testimony of Dennis R. Ivers was admitted into the record subject to Motions to Strike on January 12, 2011. That's found at page 629 of the

transcript.

JUDGE JONES: What was the date on the admission?

MR. TICE: January 12. And that was found at -- that determination was found -- a ruling was found at page 629 of the transcript.

In addition, Tri-County would ask that Tri-County Group Exhibit Number AA-1, double A-2, double B-1, double C as in Charlie -1, double C-2, double D as in Delta-1, 2, 3, 4, 5, 6, 7, 8 and 9, those are all DD and then the number, be admitted into evidence in the record. They are pursuant to a motion by Tri-County Electric Cooperative for the Administrative Law Judge to take administrative notice of certain documents that are attached to that motion and identified as above. That motion was filed October 14, 2010, with the Commission, to which I do not the believe there have been any objections filed.

In addition to that, Your Honor, Tri-County has to file the page 77 and page 78, the respective lines -- on page 77, line 21 through 25,

page 28, line 1 through 19, of the Keith Malmedal deposition as Exhibit P as in Paul for Tri-County.

That concludes Tri-County's.

JUDGE JONES: How long do you need to file that Exhibit P?

MR. TICE: Can I file it when we do the status on the 7th? Because Tri-County also --

MR. SMITH: The 6th.

MR. TICE: The 6th, I mean. Because Tri-County has also got to file the three sets of testimony that have colored maps and exhibits with the Commission at that point, with the Clerk at that time. I would do that by that time.

JUDGE JONES: All right. Going through these, Tri-County Exhibits C and C-1, were those admitted subject to Motions to Strike?

MR. TICE: Yes.

JUDGE JONES: Let the record today confirm that Tri-County Exhibits C and C-1 are part of the evidentiary record as indicated in the January 12, 2011, hearing, TR 296, subject to the already filed Motions to Strike.

(Whereupon Tri-County Exhibits C and C-1 were confirmed as being admitted into evidence.)

JUDGE JONES: The next one was I-1?

MR. TICE: That is correct.

JUDGE JONES: Was that one subject to a motion or no?

MR. TICE: I don't know. But I assume it was because it was attached to the rebuttal testimony of Dennis R. Ivers as an attachment. It just -- his rebuttal got admitted, but it didn't mention the attachment in the summary paragraph. It just says Tri-County Exhibit I and attachments thereto are admitted. And so I wanted clarification of what that it says was admitted subject to Motion to Strike.

JUDGE JONES: Let the record confirm at this time that Tri-County Exhibit I-1 is in fact part of the evidentiary record subject to any already filed Motions to Strike. It was admitted on January 12, 2011, transcript page 629.

(Whereupon Tri-County Exhibit I-1 was confirmed as being

admitted into evidence.)

JUDGE JONES: Now, is there anything else you need done for the record with reference to those exhibits so far, other than what's already been said?

MR. TICE: No.

JUDGE JONES: Then Tri-County Group Exhibits AA-1 on down the list, those were filed on 11/14/2010, is that what you are saying?

MR. TICE: They were filed -- they were filed February 14, 2011.

JUDGE JONES: February 14, 2011?

MR. TICE: October 14, I am sorry, October 14, 2010, I am sorry.

JUDGE JONES: October 14, 2010. Now, those are on the exhibit list, but they don't show a file date at that point, correct?

MR. TICE: No. At that point I don't think --

JUDGE JONES: But are they shown on e-Docket?

MR. TICE: Yes, I am pretty sure. I haven't checked it, but I assume they were.

JUDGE JONES: All right. Gotcha. Do others have any objection to the admission of those

Tri-County Group Exhibits AA-1, etcetera, just referenced by Mr. Tice?

MR. HELMHOLZ: No objection to those, Your Honor.

MR. SMITH: No objection.

JUDGE JONES: Let the record show that those items are admitted into the evidentiary record. Mr. Tice read all the identification numbers on them, the first being, for example, double A-1. So I will not read those into the record unless somebody feels that that would be better.

In any event, those group exhibits are hereby admitted into the evidentiary record. They show up on the second revised exhibit list that Tri-County filed. At that time they did not have a date filed on them, rather sent to be filed. Mr. Tice has indicated they were in fact part of a filing made on October 14, 2010.

So they are admitted as they appear in the Commission's e-Docket filing records bearing a file date of October 14, 2010.

(Whereupon Tri-County Group

Exhibits AA-1, AA-2, BB-1, CC-1, CC-2, DD-1, DD-2, DD-3, DD-4, DD-5, DD-6, DD-7, DD-8 and DD-9 were admitted into evidence.)

JUDGE JONES: Do you need anything more specific with regard to those?

MR. TICE: No.

JUDGE JONES: All right. Then there is Tri-County Exhibit P. Are you going to file that on e-Docket or did you have something else in mind? That's a pretty short one.

MR. TICE: We could file it on e-Docket, yes.

JUDGE JONES: And then electrically serve by e-mail, that is, the others.

MR. TICE: I will put an identifying heading, case heading, on it.

JUDGE JONES: I'll give leave of two weeks to make that filing. If you want to file it sooner, you can, unless somebody else wants to see it before the status hearing.

And then you also mentioned submission of copies of some color exhibits or over-sized

exhibits, and there will need to be some filings made of those types of materials. But whether you file those within that same time frame as Exhibit P is up to you. I think to the extent that we don't put some time frame in for the submission of those items by the parties, then we can take that up, figure that out on a later date. I mean, if the parties want to deal with that today, we certainly can. But, otherwise, we won't schedule a date for that.

I realize some of those are pretty large and they may be involve some additional efforts by the preparer of them before they can be filed anyway in the form that the parties want them with the color and the size.

Was that all that you had in your list?

MR. TICE: Yes, Your Honor.

JUDGE JONES: Mr. Helmholz?

MR. SMITH: Not to speak for Mr. Tice but what about Exhibit N?

MR. TICE: N was filed this morning.

MR. SMITH: Was that admitted this morning?

Okay. Then you have got that covered. That's it. Thank you.

MR. TICE: You have your three copies.

JUDGE JONES: Now, Mr. Helmholz, did you want to speak to some exhibits?

MR. HELMHOLZ: I did, Your Honor. I would like to move the admission of enlargements of figures that have already been identified. They are actually photographs that are labeled as figures in Ameren Exhibit 5.1.

And what I would like to submit, can't do it today, but I would like to submit 8 and a half by 11, basically letter size enlargements of Figure 1, 2, 4, 5, 6 and 7. And those are all from the report of Dr. Keith Malmedal which is Ameren 5.1.

And when I submit those, I will, to distinguish them from the smaller ones that are in the report, I will label them Figure 1 and (Enlargement). So the difference will be that they are an enlargement of the smaller ones that are in the report. And I would just like to see if there is agreement for me to do that. Then I will show those

to counsel before I e-mail them.

JUDGE JONES: Let's find out. Is that acceptable to the other parties?

MR. TICE: It is acceptable, but you are going to send us hard copies?

MR. HELMHOLZ: Yes.

MR. SMITH: It is acceptable to me, and I assume that they will be part of the evidentiary record as well. I am not sure if I am clear on that, but that's what I would like to see happen.

MR. HELMHOLZ: I am moving their admission subject to anyone looking at one and thinking it is inappropriate.

JUDGE JONES: What time frame do you propose to do that?

MR. HELMHOLZ: Two weeks is fine, the same as Mr. Tice's.

JUDGE JONES: Anything else on that?

MR. HELMHOLZ: Not on that, Your Honor.

JUDGE JONES: All right. Leave is given to AmerenIP through Mr. Helmholz to make that filing. I won't repeat all the information that Mr. Helmholz

just stated. Those items, 5.1, Figure 1 (Enlargement), etcetera, will be deemed part of the evidentiary record in this docket upon being received. Is that treatment acceptable to everybody?

MR. HELMHOLZ: Yes, sir.

MR. SMITH: Yes.

JUDGE JONES: And if I forgot to mention it, 14 days will be allowed for that purpose.

Did you have anything else, Mr. Helmholz?

MR. HELMHOLZ: Two other matters, Your Honor, if I may. I think this was just a confirmation of clarification, but AmerenIP Exhibit 6.1 is a redacted deposition transcript of Don Forney. It was e-filed December 20, 2010, as e-Docket File Number 2. Counsel advises me that that can go in by agreement. If it is not already in the record, I would like to confirm that that is admitted into evidence.

MR. TICE: We stipulated to that, I believe, last fall sometime at a hearing.

MR. HELMHOLZ: Thank you. And the last thing, Your Honor, is also Ameren has a Motion for

Administrative Notice pending and that has two exhibits, AmerenIP Exhibit 12 which is a Service Area Boundary Map. That was e-Docket filed October 5, 2010, as e-Docket File Number 2.

And then also with that motion is AmerenIP Group Exhibit 13 which constitutes certified copies of completion reports from the Illinois State Geological Survey, also filed October 5, 2010, as e-Docket File Numbers 1 through 5. I would just move for admission of those.

MR. SMITH: No objection.

MR. TICE: No objection.

JUDGE JONES: All right. Let the record show those items are hereby admitted into the evidentiary record. AmerenIP Exhibit 12 and Group Exhibit 13 are both identified on the revised exhibit list, I should say second revised exhibit list. They are admitted as they appear on the Commission's e-Docket filing system. As noted by Mr. Helmholz, 12 was filed on October 5, 2010, as was Group Exhibit 13.

(Whereupon AmerenIP Exhibit 12 and Group Exhibit 13 were

admitted into evidence.)

JUDGE JONES: Did you need anything else done with respect to those items?

MR. HELMHOLZ: No, sir.

JUDGE JONES: And back up a minute to IP 6.1. That's a redacted discovery deposition, correct?

MR. HELMHOLZ: Yes, sir.

JUDGE JONES: All right. Does anybody else have any comment on that?

MR. SMITH: No, I have no objection.

JUDGE JONES: Let the record show that AmerenIP Exhibit 6.1 is admitted into and is part of the evidentiary record. As Mr. Helmholz noted, it was filed on e-Docket and reflected on e-Docket records as being filed on December 12, 2010, Item Number 2, redacted discovery deposition of Don Forney. That is in the evidentiary record.

(Whereupon AmerenIP Exhibit 6.1 was admitted into evidence.)

JUDGE JONES: Anything else you need done with that?

MR. HELMHOLZ: No, sir.

JUDGE JONES: Did you have anything else for today?

MR. HELMHOLZ: That's all I have, Your Honor.

JUDGE JONES: Did you have anything, Mr. Smith?

MR. SMITH: Just as a procedural matter, we are flexible, I guess, in opening and closing. Citation will adopt as its case in chief the Ameren evidence as well. We did this for the convenience of the witnesses, out-of-state witnesses.

JUDGE JONES: What is it you are proposing to do here?

MR. SMITH: I am just adopting Ameren's evidence as ours as well. I assume Scott will rest at some point.

JUDGE JONES: Mr. Tice?

MR. TICE: Well, I think that's inconsistent with the rulings of the Administrative Law Judge as to what Citation can put in in the way of evidence or cannot put in in the way of evidence.

MR. SMITH: That's not accurate.

MR. TICE: Yes, it is. The Judge has ruled on your motion to put in additional evidence, and that

was limited to what we have already had with Mr. Bing. And I don't think that is consistent with that ruling.

The fact that the IP testimony is in the record is here, but I don't want that to be assumed that, by you adopting it for Citation purposes, Mr. Smith, and then somehow that opens the door that you can put additional evidence in. I don't think that's correct. I don't think that would be consistent with that ruling.

And I don't think you have to put a motion in the record to say that you adopt that evidence that keeps you from whatever brief you want to write. I think the evidence is whatever it is in the record. So I would object to it to that extent that it prevents -- or that it is not consistent with this Judge's ruling on the evidence from Citation that they can put in.

JUDGE JONES: Well, I am not going to rule on this today. It is a disputed matter that came up today. There will probably have to be some scheduling done to get this addressed if it is still

disputed after today.

Do you want to put some scheduling on that in place today or do you want to take that up on the 6th?

MR. TICE: I would prefer to take it up on the 6th, Your Honor.

JUDGE JONES: If it is still disputed on the 6th, then we will figure out how most appropriately to get it addressed at that point.

Is there anything else the parties wanted to take up today before we conclude today's hearing and put this matter over to a status on May 6 at 11:00?

MR. TICE: Nothing from Tri-County.

JUDGE JONES: Was there anything else the parties wanted noted today in terms of the status of the evidentiary record, other than what's already been done?

MR. HELMHOLZ: None.

MR. TICE: No.

JUDGE JONES: Fair enough. It looks like we are ready to conclude today's hearing then. Let me

make sure. Anything else then before we continue this matter to the status on the 6th?

All right. Let the record show that today's hearing is concluded. Our thanks to the parties, counsel and witnesses, for your participation. It's been a somewhat long process, but the level of cooperation has really been pretty good among the parties.

In any event, this matter is continued to a status hearing date on May 6, 2011, at 11:00 a.m.

(Whereupon the hearing in this matter was continued until May 6, 2011, at 11:00 a.m. in Springfield, Illinois.)